

ORDINANCE NO. 2021-1-90E

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING IN ITS ENTIRETY SECTION 153.122: PROCEDURES FOR AUTHORIZING OF CHAPTER 153: ZONING REGULATIONS OF THE TONTITOWN MUNICIPAL CODE OF THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY**

**WHEREAS**, on or about May 2, 2017, the City Council of Tontitown adopted Ordinance No. 2017-05-635 to adopt zoning regulations within the city and said Ordinance No. 2017-05-635, as it has been amended from time to time and as was thereafter codified within in Chapter 153: ZONING REGULATIONS in the Tontitown Municipal Code; and

**WHEREAS**, the City Council of the City of Tontitown now finds it to be in the best interest of the citizens of the City of Tontitown to amend Section 153.122: PROCEDURES FOR AUTHORIZING of Chapter 153: ZONING REGULATIONS of the Tontitown Municipal Code; and

**WHEREAS**, the Tontitown Planning Commission has reviewed the revisions of Section 153.122: PROCEDURES FOR AUTHORIZING and recommends to the City Council that these revisions be approved; and

**WHEREAS**, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Section 153.122: PROCEDURES FOR AUTHORIZING of the Tontitown Municipal Code should be revised and restated in its entirety as incorporated herein below.

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

**Section 1.** That Section 153.122: PROCEDURES FOR AUTHORIZING, of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code is hereby revised in its entirety, and shall now read as follows:

See Attached Exhibit "A"

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

**Section 5.** Declaration of Emergency. It is hereby found and determined that Section 153.122: PROCEDURES FOR AUTHORIZING of Chapter 153: ZONING REGULATIONS, of

the Tontitown Municipal Code should be immediately amended in order to clarify and amend the procedure for authorizing a conditional use within the City of Tontitown. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

**PASSED AND APPROVED** this 5<sup>th</sup> day of January, 2020. <sup>4</sup>

APPROVED:

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

ATTEST:

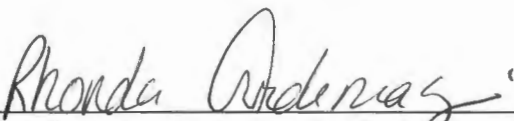
  
\_\_\_\_\_  
Rhonda Ardemagni, City Clerk-Treasurer  
(SEAL)

Exhibit "A"

**§ 153.122 PROCEDURE FOR AUTHORIZING.**

The following procedure is established to properly integrate ~~properly, the a~~ conditional use with other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:

(A) *Application.* An application shall be made by the property owner and filed with the zoning official, upon forms prescribed for that purpose, accompanied with the appropriate fee established by the City Council to defray processing costs. The application shall be accompanied by a graphic representation showing the location and proposed use of the site, along with such other descriptive material necessary for decision-making. Such may include, but is not limited to: preliminary site plans showing proposed uses and ~~structures~~; proposed ingress and egress to the site, including adjacent streets; proposed off-street parking and landscaping; lighting and signage; a preliminary plan for provision of sanitation and drainage facilities; and proximity of adjacent uses and buildings.

(1) Each application shall be verified by at least one of the owners of the property proposed to be changed, attesting to the truth and correctness of all facts and information presented with the application.

(2) The filing deadline for inclusion on the Planning Commission agenda shall be the 1st Tuesday of the month prior to the Planning Commission meeting, which is held on the 4th Tuesday of the month.

(B) (1) *Notice.* Upon determining that an application is proper and complete, the zoning official shall ensure that the matter is set for public hearing before the Planning Commission. The zoning official shall be responsible for ensuring that, pursuant to law, at least 15 days' notice of the time, place, and subject of such hearing is published in a newspaper of general circulation in the city.

(2) The applicant shall present evidence to the zoning official, at least ten days prior to the required public hearing, that all property owners within 200 feet of the boundaries of the subject property have been notified of the proposed use, and of the time, date, and place of the hearing. Such evidence shall consist of postmarked, certified receipts and/or return receipts.

(C) (1) *Planning Commission review and action.* The Planning Commission shall review conditional use permit applications at its regularly scheduled monthly meeting, at which time interested persons may appear at the required public hearing and offer information in support of or against the proposed conditional use. Following the public hearing, the commission may recommend that the City Council approve the application as presented, recommend that the City Council approve ~~the application~~ with conditions, table ~~the application~~ with cause for not to exceed one month, or deny the application, ~~or refer it to the City Council for final disposition~~. A recommendation for approval or approval with conditions shall require an affirmative vote of a majority of the authorized membership of the Planning Commission. Following a recommendation to approve the application or approve the application with conditions, the Planning Commission shall forward the application and recommendation to the City Council and



the City Council shall have the final authority to accept the recommendation, to accept the recommendation with additional conditions, table the application with cause for not to exceed one month, or to deny the application.

(2) In approving such conditional uses, the Planning Commission and City Council shall impose such conditions and restrictions upon the premises as it deems necessary to reduce or minimize the adverse effects of the use. Compatibility with surrounding property shall be ensured to the maximum extent practicable. If the Planning Commission or City Council disapproves or denies a conditional use application, the reasons for such action shall be given to the applicant with 15 days from the date of the decision. If denied by the City Council, no application for such use or similar use shall be permitted involving part of the same property for a period of six months.

(D) ~~The Planning Commission shall have final authority except that~~ A petitioners or record objectors aggrieved by an action to deny an application by the Planning Commission shall file an appeals to the City Council with the Clerk-Treasurer. The content of the appeal filing shall consist of: (1) A cover letter addressed to the ~~m~~Mayor and City Council setting forth the request; and (2) a copy of the Planning Commission application indicating the action and properly executed by the staff. This filing shall occur within 15 calendar days of the action denial by the Planning Commission. Certified mail notice of the appeal hearing shall be provided by the appellant not less than ten days prior to the date of the hearing, and the affidavit and other supporting evidence of notice shall be filed not less than five days prior to the date of review. This notice shall be given to all record parties in interest whether for or against the request. The cost of this notice shall be borne by the appellant.

(E) In no case, shall the Planning Commission or City Council authorize reduction from minimum requirements of these regulations relating to height, area, setbacks, parking, or landscaping. In addition, no conditional use authorized by the Planning Commission or City Council shall be subsequently considered in connection with a variance request to the Board of Zoning Adjustment.