

ORDINANCE NO.: 2008-08-318

AN ORDINANCE REPEALING ORDINANCE 2008-5-310 AND AMENDING SECTION 31.04 OF THE CODE OF ORDINANCES FOR THE CITY OF TONTITOWN, ARKANSAS, ESTABLISHING A WATER & SEWER COMMISSION FOR THE PURPOSE OF OPERATING AND MAINTAINING THE MUNICIPALLY OWNED WATERWORKS DISTRIBUTION SYSTEM AND WASTEWATER SYSTEM; DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES.

WHEREAS, on or about May 13, 2008, the City Council for the City of Tontitown, Arkansas, adopted Ordinance No. 2008-5-310 which repealed Ordinance No. 2005-7-220 passed July 5, 2005, and established a Waterworks Committee and a Sewer Committee; and

WHEREAS, on or about May 13, 2008, the City Council further voted to refer Ordinance No. 2008-5-310 to the electorate for consideration at the next general election, thereby staying the effect of Ordinance No. 2008-5-310 until the election; and

WHEREAS, the election has not yet occurred, and the Election Commission has not yet placed the matter on the ballot; and

WHEREAS, the City Council now desires to repeal Ordinance No. 2008-5-310, and to amend Section 31.04 of the Code of Ordinances for the City of Tontitown, Arkansas, to its form as it existed prior to the adoption of Ordinance No. 2008-5-310;

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

Section 1. Ordinance No. 2008-5-310 is hereby repealed. The City Council hereby rescinds, cancels and withdraws its Motion of May 13, 2008 to refer Ordinance No. 2008-5-310 to the electorate at the next general election. It is the intention of this Ordinance that Ordinance No. 2008-5-310 be repealed before it were to effect, and that Section 31.04 of the Code of Ordinances for the City of Tontitown, Arkansas, remain in effect, uninterrupted, as it existed following the adoption of Ordinance No. 2005-7-220. For clarity's sake, Section 31.04, as it appears upon passage of the present Ordinance is restated below.

Section 2. Section 31.04 of the Code of Ordinances for the City of Tontitown, Arkansas, is

hereby repealed, and the following Section 31.04 is hereby substituted in its place:

§ 31.04 WATER AND SEWER COMMISSION

(A) Establishment of Commission.

Pursuant to A.C. §14-234-116, there is hereby created a Water and Sewer Commission to consist of five citizens who are qualified electors of the city. Upon the passage and approval of this section, the Commission shall take full and complete control of all properties of every kind and character belonging to the city and used in connection with the water works and sewer system, whether, subject to the exceptions below, said properties are situated within or without the corporate limits of the city.

(B) Powers and duties.

(1) The Commission shall have full and complete authority to manage, operate, improve, extend, and maintain the municipal waterworks and distribution system.

(2) The Commission shall have full and complete charge of the waterworks and distribution system and sewer system, including the right to employ all assistants and employees of whatsoever nature, kind, or character, and to fix, regulate, and pay their salaries; it being the intention of this section to vest in the Commission unlimited authority to operate, manage, maintain, improve, and extend the city-owned waterworks and distribution system and sewer system, and to have full and complete charge thereof provided, however, that the Commission shall not have authority or power to sell, mortgage, or encumber the waterworks and distribution system and sewer system unless the same be done in accordance with Acts 131 and 132 of Acts of 1933 (A.C. §§ 14-234-201 et seq., and §§ 14-235-201 et seq.), as amended, or unless authorized by mandate of an election called for that purpose.

(3) The Commission shall adopt such rules and regulations as it deems necessary and expedient for the proper operation and management of the waterworks and distribution system and sewage collection system, and shall have the authority to alter, change, or amend such rules and regulations at its discretion. The Commission shall submit monthly reports and annual audits of the operations to the Mayor and the City Council, and furnish such other or further reports, data, or information as may be requested by the Mayor or City Council.

(C) Membership and terms.

(1) The Commissioners shall be appointed by the Mayor and confirmed by a two-thirds vote of the duly elected and qualified members of the City Council, and shall hold office for a term of eight years; provided however, that Commissioners first appointed and confirmed shall serve for terms for four, five, six, seven and eight years, each to be designated by the Mayor and City Council. Thereafter, and upon expiration of their respective terms, their successors shall be appointed by the remaining Commissioners subject to the approval of two-thirds of the duly elected and qualified members of the City Council for a term of eight years.

(2) In the even of a vacancy occurring on the Commission resulting from something other than an expiration of terms as set forth above, the remaining Commissioners will appoint a member, subject to the approval of two-thirds of the duly elected and qualified members of the City Council, to fill the vacancy.

(D) Appointment and commission. Upon the appointment of the Commissioners, the Mayor shall issue a commission to each of the them for his or her respective term of office, which

shall be attested by the City Recorder/Treasurer, with the Seal
of Tontitown, Arkansas.

Section 3. EMERGENCY CLAUSE. The City Council hereby declares an emergency to exist in that: clarity is necessary for the proper functioning of the City's water and sewer systems; confusion could result from the repeal of the ordinance abolishing the water and sewer commission and the retraction of the vote to refer the matter to an election; and deadlines relating to placing matters on the ballot for the next general election are nearing and require this Ordinance to be effective immediately upon its passage in order to prevent confusion as to the status of the City's waterworks and sewer systems. Thus, the City Council finds that an emergency exists and, in order to preserve public peace, health and safety, this Ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED THIS 5th DAY OF August, 2008.

Joseph E. Egan
Mayor

ATTEST:

Debra A. Carter
City Recorder/Treasurer

SPONSOR: Becky A. Alison