

ORDINANCE NO. 2014-12-495

AN ORDINANCE AMENDING THE TONTITOWN MUNICIPAL CODE CHAPTER 31 BY THE ADDITION OF SECTION 31.08, TITLED "BILL OF RIGHTS FOR LAW ENFORCEMENT OFFICERS"; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the Tontitown Municipal Code currently contains no provision establishing procedures for the investigation of alleged improper conduct of the law enforcement officers of the City of Tontitown, and it is deemed necessary and desirable that the Code be amended to add such provisions; and

WHEREAS, Arkansas Code § 14-52-301, *et al.*, creates such procedural requirements and grants to any municipality the authority to adopt them in whole or in part; and

WHEREAS, in order to create such procedures, it is desirable that the requirements contained therein be adopted.

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

Section 1: That Chapter 31 of the Tontitown Municipal Code is amended by the addition of a new section, to be numbered "31.08" and titled "Bill of Rights for Law Enforcement Officers," as same is attached hereto and set out word for word.

Section 2. Emergency. The City Council of the City of Tontitown, Arkansas, has determined that an emergency is hereby found to exist and this ordinance, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage, approval, and publication.

PASSED AND APPROVED this 2nd day of December, 2014.



JACK BECKFORD, Mayor

ATTEST:



ALICIA COLLINS, Recorder

ATTACHMENT TO
ORDINANCE NO. 2014-_____ -_____

§ _____ Bill of Rights for Law Enforcement Officers.

(A) Pursuant to Subchapter § 14-52-301, *et al.*, of the Arkansas Code, the City of Tontitown adopts all provisions contained within said subchapter. Therefore, the following procedures for negotiating personnel issues with its law enforcement officers are adopted:

(B) *Definitions.* As used in this subchapter:

- (1) **"Complainant"** means the person or persons providing the information constituting the basis for official departmental charges alleging improper conduct;
- (2) **"Formal proceeding"** means a proceeding heard before any officer, committee, or other body of city government with the authority to take disciplinary action against a law enforcement officer;
- (3) **"Law enforcement officer"** means any public servant vested by law with a duty to maintain order or to make arrests for offenses; and
- (4) **"Official departmental charges"** means a written document from the chief of police or other lawful authority notifying the accused law enforcement officer that charges of misconduct have been made and setting forth the specifics of the alleged misconduct.

(C) *Disciplinary action and procedure.* Whenever a law enforcement officer is under investigation for alleged improper conduct with a possible result of termination, demotion, or other disciplinary action causing loss of pay or status, the following minimum standards may apply:

- (1) No adverse inference shall be drawn and no punitive action taken from a refusal of the law enforcement officer being investigated to participate in the investigation or be interrogated other than when the law enforcement officer is on duty or is otherwise fully compensated for the time spent in accordance with city and departmental overtime policy and state and federal law;
- (2) Any interrogation of a law enforcement officer shall take place at the office of those conducting the investigation, the place where the law enforcement officer reports for duty, or the other reasonable place as the investigator may determine;
- (3) The law enforcement officer being investigated shall be informed at the commencement of his or her interrogation of:
 - (a) The nature of the investigation;
 - (b) The identity and authority of the person or persons conducting the investigation; and
 - (c) The identity of all persons present during the interrogation;

- (4) During the interrogation of the law enforcement officer, questions will be posed by or through only one (1) interrogator at a time;
 - (5) Any interrogation of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer;
 - (6) No threat, harassment, promise, or reward shall be made to any law enforcement officer in connection with an investigation in order to induce the answering of any questions that the law enforcement officer has a legal right to refrain from answering, but immunity from prosecution may be offered to induce such a response;
 - (7) All interrogations of a law enforcement officer in connection with an investigation against him or her shall be recorded in full. The law enforcement officer shall be allowed to make his or her own independent recording of his or her interrogation and have one (1) witness of his or her choosing present. The witness must be an attorney or a member of the police department that is in no way related to the matter under investigation;
 - (8) No formal proceeding which has the authority to administer disciplinary action against a law enforcement officer may be held except upon official departmental charges;
 - (9) Official departmental charges shall contain the specific conduct that is alleged to be improper, the date and the time of the alleged misconduct, the witnesses whose information provided the basis for the charges, and the specific rules, regulations, orders, or laws alleged to have been violated;
 - (10) Any law enforcement officer under official departmental charges shall be entitled to a pre-disciplinary hearing before the chief of police if the disciplinary action is being considered. At the hearing, the law enforcement officer shall have the opportunity to have a person of his or her choosing present; and
 - (11) No formal proceeding which has authority to penalize a law enforcement officer may be brought except upon charges signed by the person making those charges.
- (D) *Disclosure of personal information.* No law enforcement officer shall be required to disclose for the purposes of promotion or assignment any item of his or her property, income, assets, debts, or expenditures, or those of any member of the officer's household.
- (E) *Notice.* Whenever a personnel action may result in any loss of pay or benefits or status, the law enforcement officer shall be notified of the pending action by written official departmental charges a reasonable time before the action is taken except where exigent circumstances otherwise require.

- (F) *Political activities.* Except when on duty or acting in his or her official capacity, no law enforcement officer of a city or incorporated town shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in the activity.
- (G) *Penalties and remedies.*
- (1) There shall be no penalty nor threat of any penalty for the exercise by a law enforcement officer of his or her rights under this Bill of Rights.
 - (2) Nothing in this Bill of Rights shall disparage or impair any other legal remedy any law enforcement officer shall have with respect to any rights under this Bill of Rights.