

ORDINANCE NO. 2016-__

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 93.02 OUTDOOR AND OPEN BURNING OF CHAPTER 93: FIRE PREVENTION CODE OF THE TONTITOWN MUNICIPAL CODE IN ITS ENTIRETY OF THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY

WHEREAS, on or about November 4, 2014, the City Council of Tontitown adopted Ordinance No. 2014-11-486 to provide for regulations for outdoor and open burning within the city and said Ordinance No. 2014-11-486, was thereafter codified within Chapter 93: FIRE PREVENTION CODE in the Tontitown Municipal Code; and

WHEREAS, the Tontitown Committee of the Whole has reviewed revisions of Section 93.02 OUTDOOR AND OPEN BURNING of Chapter 93: FIRE PREVENTION CODE and recommends to the City Council that certain revisions be approved; 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 93.02 OUTDOOR AND OPEN BURNING of Chapter 93: FIRE PREVENTION CODE of the Tontitown Municipal Code to better provide for regulations for outdoor and open burning; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Section 93.02 OUTDOOR AND OPEN BURNING of Chapter 93: FIRE PREVENTION CODE, 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. Section 93.02 OUTDOOR AND OPEN BURNING of Chapter 93: FIRE PREVENTION CODE, of the Tontitown Municipal Code is hereby revised, in its entirety, and as attached hereto as Exhibit "A".

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

Section 3. Declaration of Emergency. It is hereby found and determined that Section 93.02 OUTDOOR AND OPEN BURNING of Chapter 93: FIRE PREVENTION CODE, of the Tontitown Municipal Code should be immediately amended in its entirety in order to provide regulations for outdoor and open burning 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 _____ day of _____, 2016.

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Recorder-Treasurer
(SEAL)

EXHIBIT "A"

§ 93.02 OUTDOOR AND OPEN BURNING.

- (A) Outdoor and open burning may be allowed upon the approval of the Fire Department. All applications are subject to the adherence to all provisions of the Tontitown Municipal Code:
- (1) Outdoor burning means open burning or burning in an outdoor fireplace, fire pit, or patio wood burning unit.
 - (2) Open burning means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.
- (B) All open and outdoor burning is subject to the following:
- (1) All burning shall be conducted after dawn and extinguished before dusk;
 - (2) No burning shall take place on land without written permission of the land owner or agent;
 - (3) No burning shall be conducted on days when the wind speeds are exceeding 15 miles per hour;
 - (4) The Fire Chief may prohibit any fires when circumstances may be hazardous;
 - (5) No burning shall be kindled or maintained within 50 feet of any combustible structure;
 - (6) Fire shall be under constant attendance until extinguished;
 - (7) All persons conducting burning shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire;
 - (8) Material being burned shall not, under any condition, cause a dense smoke or odor;
 - (9) Applicant shall be responsible to keep burning under control at all times. The applicant shall be responsible for fire department suppression costs, as well as any property damages sustained by others;
 - (10) No materials may be burned upon any street, curb, gutter or sidewalk;
 - (11) The outdoor and open burning of the following items is prohibited and no permit shall issue for the same:
 - (a) Garbage from food preparation;
 - (b) Treated, milled or dimensional lumber;
 - (c) Trade waste (commercial, industrial, or construction);
 - (d) Motor vehicles or any material resulting from a salvage operation;
 - (e) Asphalt, composition roofing or similar materials;
 - (f) Tar, tar paper, petroleum products, plastics or paints;
 - (g) Insulated wire;
 - (h) Dead animals or animal waste;
 - (i) Hazardous or pathogenic waste; and
 - (j) The burning of any items prohibited under state or federal laws.
- (C) Fire pits may be used for recreational, ceremonial, or cooking purposes without the requirement of a burn permit. However, only untreated wood and wood products and other products designed for such use, may be used as fuel.
- (1) Fire pit shall mean a pit dug into the ground or a freestanding vessel, whether manufactured or constructed, in which a contained outdoor fire is made. A fire pit shall not exceed six feet in diameter (outside to outside measurement), must be used in accordance

with manufacturer's instructions (if any), and shall not be used within 15 feet of any structure or flammable material(s).

(2) Each fire pit shall meet the regulations established by the Fire Department and shall be approved by the Fire Chief, or his or her designee, before the use of any fire pit shall be allowed under this code.

(3) The Fire Department shall promulgate such rules and regulations as are deemed necessary and appropriate for control and monitoring of fire pit use. A copy of such rules and regulations shall be filed with the City Clerk.

(D) This section does not apply to the following:

(1) Grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(2) Burning for the purpose of generating heat in a stove, furnace, fireplace, or other heating device within a building used for human or animal habitation.

(3) The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction, or maintenance activities.

(4) Burning caused or permitted by any public officer, board, council, or commission when the burning is caused or permitted in furtherance of the duties of that public officer, board, council, or commission.

(5) Burning pursuant to road construction operations.
(Ord. 2014-11-486, passed 11-4-14)