

ORDINANCE NO. 2017-_____

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 32.02 OF THE CODE OF ORDINANCES FOR THE CITY OF TONTITOWN, ARKANSAS, PROVIDING FOR PROCEDURES FOR PURCHASES USING CITY FUNDS, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES

WHEREAS, Arkansas Code Annotated § 14-58-303 provides that cities of the second class may provide by ordinance for the making all purchases;

WHEREAS, the City of Tontitown is a city of the second class;

WHEREAS, the City currently has numerous ordinances which overlap, are not entirely consistent with one another and are inadequate and unclear and do not provide for all purchasing scenarios; and

WHEREAS, the City Council has determined that is in the best interest of the City of Tontitown, Arkansas, to amend and replace Section 32.02 of the Code of Ordinances for the City of Tontitown, Arkansas, in its entirety by repealing the current section and adopting a revised Section 32.02.

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

Section 1: Ordinances No. 2015-10-553 codified at Section 32.02 of the Code of Ordinances for the City of Tontitown, Arkansas is hereby repealed.

Section 2: Section 32.02 of the Code of Ordinances for the City of Tontitown, Arkansas is hereby attached as Exhibit "A".

Section 2: If any section, subsection, sentence clause, phrase, or portion if this Ordinance if for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distant and independent provision and such holdings shall not affect the validity of the remaining portions thereof.

Section 3. Declaration of Emergency. It is hereby found and determined that repeal of Ordinance 2015-10-553 and amending Section 32.02 of the Code of Ordinances regarding competitive bidding requirements is necessary as these provisions of the Municipal Code and the Ordinance was not required for a city of the second class to protect 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 January, 2017.

APPROVED:

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Recorder-Treasurer

(SEAL)

§ 32.02 PURCHASING BY MAYOR AND COUNCIL MEMBERS; PROCEDURE.

(A) The approval by the Council of the budget shall amount to an appropriation of funds, which are lawfully applicable to the items therein contained. Expenditures shall be made only from funds previously appropriated by Council and only for the purposes set forth in such appropriation.

(B) The Mayor, or the Mayor's duly authorized representative, shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials, and other things requisite for public purposes in and for the City of Tontitown and to make all necessary contracts for work or labor to be done, or material or other necessary things to be furnished for the benefit of the city, or in carrying out any work or undertaking of a public nature therein that does not exceed \$20,000.

(C) For all purchases of supplies, apparatus, equipment, materials, and other things requisite for the city, or for necessary contracts for work or labor, where the expenditure therefor is, or is anticipated to be, in excess of \$20,000, the Mayor or his/her duly authorized representative shall obtain approval of the City Council prior to making the expenditure.

(D) The City shall engage in competitive bidding for goods, services or projects when so required by applicable law. No invitation for bids, advertisement, or competitive bidding shall be required for:

(1) Professional services;

(2) Products or services determined by the City Council to be provided by a unique vendor such that it does not lend itself to competitive bidding;

(3) When it is determined by the City Council that competitive bidding is not feasible, possible or practical under the circumstances;

(4) When reimbursing or repaying a federal, state, county, or another local governmental entity for goods or services purchased for the benefit of, or on behalf of, the city, provided that the governmental entity complied with applicable competitive bidding laws or regulations when making the purchase or expenditure to be reimbursed or repaid; or

(5) In cases of emergency. In the event of emergency, the Mayor shall report the expenditure to the City Council and shall certify in writing the facts constituting the emergency no later than the next regular City Council meeting or special meeting called for that purpose.

(E) The Mayor, or the Mayor's duly authorized representative, may approve for payment out of any funds previously appropriated pursuant to the process and for the purposes enumerated above, or disapprove any bills, debts, or liabilities asserted as claims against the city, when funds on hand are adequate to pay such bills, debts, or liabilities.

(F) The Mayor, or the Mayor's duly authorized representative, may sell or exchange any municipal supplies, apparatus, equipment, materials, and other things requisite for the city, pursuant to the following procedure:

(1) The Mayor, or the Mayor's duly authorized representative, may sell or exchange any municipal supplies, materials, or equipment if such supplies, materials, or equipment have a value of less than \$20,000.

(2) If the Mayor believes the value of such supplies, apparatus, equipment, material, or other things to be sold or exchanged is less than \$20,000, he or she shall certify his or her opinion in writing to the governing body, after which the Mayor or the Mayor's duly authorized representative may sell or exchange such supplies, apparatus, equipment, material, or other things without approval by the governing body.

(3) Supplies, materials, or equipment having a value in excess of \$20,000, or for which the Mayor has not previously certified his or her opinion of value in accordance with this section, shall be sold or exchanged upon prior approval of the City Council and in accordance with applicable Arkansas law.

(G) The Mayor and aldermen may conduct business with the city under the following conditions:

(1) The purchase is under \$20,000 in value and comparable merchandise or equipment at comparable prices is not otherwise available within the city.

(2) The cost of the service is under \$20,000 in value and comparable services at comparable prices are not otherwise available within the city.

(H) The Mayor, or the Mayor's duly authorized representative, shall observe the following procedures for purchasing, which shall be the purchasing policy for the city. All items purchased should be assigned purchase orders.

(I) Each alderman, the Recorder/Treasurer, and the Mayor shall be authorized to sign checks or drafts on the city accounts, unless otherwise specifically required by law. Two authorized signatures shall be required on all checks or drafts on city accounts.

(Ord. 2009-04-334, passed 4-7-09; Am. Ord. 2009-04-336, passed 4-7-09; Am. Ord. 2011-01-369, passed 1-5-11; Am. Ord. 2015-10-553, passed 10-6-15)