

ORDINANCE NO. 2018-11-\_\_\_\_\_

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING SECTION 150.005 PROCEDURES FOR CONSTRUCTION OF DWELLINGS OF CHAPTER 150: BUILDING REGULATIONS OF THE TONTITOWN MUNICIPAL CODE IN ITS ENTIRETY IN ORDER TO CLARIFY AND AMEND REQUIREMENTS FOR DWELLINGS OF THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY**

**WHEREAS**, on or about December 5, 2017, the City Council of Tontitown adopted Ordinance No. 2017-12-667 to clarify and amend requirements for construction of dwellings or other building or structure within the city and said Ordinance No. 2017-12-667, as it has been amended from time to time and as was thereafter codified within in Chapter 150: BUILDING 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 Ordinance No. 2017-12-667 and the Tontitown Municipal Code Section 150.005 PROCEDURES FOR CONSTRUCTION OF DWELLINGS in its entirety to clarify and amend dwelling or other building guidelines and standards; and

**WHEREAS**, Ark.Code Ann. § 14-56-401 *et seq.* provides multiple bases for all cities in Arkansas to regulate placements construction and inspection of houses through the issuance and denial of permits, including specifically, but not limited to, the powers conferred to all cities by and through Ark. Code Ann. § 14-5-.416; and

**WHEREAS**, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Section 150.005 PROCEDURES FOR CONSTRUCTION OF DWELLINGS of Chapter 150: BUILDING REGULATIONS, 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 150.005 PROCEDURES FOR CONSTRUCTION OF DWELLINGS of Chapter 150: BUILDING REGULATIONS, 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 150.005 PROCEDURES FOR CONSTRUCTION OF DWELLINGS of Chapter 150: BUILDING REGULATIONS, of the Tontitown Municipal Code should be immediately amended in its entirety in clarify and amend requirements for construction of dwellings or other building or structure 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 \_\_\_\_\_, 2018.

APPROVED:

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

ATTEST:

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

## Exhibit "A"

### § 150.005 PROCEDURES FOR CONSTRUCTION OF DWELLINGS.

(A) From and after the passage of this section, in accordance with the authority granted in Ark. Code Ann. § 14-56-416 and elsewhere in state law, it shall be unlawful for any person, firm or corporation to build, erect or construct any home, building or structure within the corporate limits of the City of Tontitown, Arkansas, except as hereinafter provided.

(B) Any person, firm or corporation desiring to build, erect or construct such home, dwelling, building or structure within the corporate limits of the City of Tontitown, Arkansas, shall make application for a building/zoning permit with the application to be filed with the City building/zoning official of the City of Tontitown, Arkansas, and with such application to contain such information as may be required by the City of Tontitown, Arkansas.

(C) The city building/zoning official shall consider the application in relation to the ordinances and/or standards or regulations adopted by the City Council, and the city building/zoning official shall have the sole discretion in either approving or denying the building/zoning permit applied for by the applicant.

(D) The standards or regulations heretofore mentioned shall be considered as adopted by the City Council when dated and signed by the Mayor and Recorder/Treasurer at any regular or special meeting of the City Council, and a copy of the guidelines and standards shall be on file with the City of Tontitown, Arkansas for inspection by any interested persons at reasonable times.

(E) *Minimum requirements for dwellings.*

(1) In no case shall a primary dwelling consist of less than 1,000 heated square feet of floor area.

(2) Accessory dwellings are not allowed.

(3) All dwellings shall be constructed on a permanent foundation.

(4) All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.

(F) The Mayor of the City of Tontitown, Arkansas shall have the authority to delegate any of its authority or powers provided herein to any person in order to implement this section.

(G) This section shall apply to either new construction or improvements or additions to existing structures, the cost of which exceeds \$1,000; provided, however, that no permit shall be required for any improvements solely within the interior of any existing structure.

(H) The Mayor shall designate or employ a building/zoning official and a building inspector to carry out the intent of this section.

(I) Any person receiving written notification from the City of Tontitown that he or she is in violation of the provisions of this section and any amendments thereto shall have a period of 30 days following the receipt of such notice in which to effect compliance or otherwise will upon conviction be subject to a fine in keeping with Ark. Code Ann. § 14-55-504 as amended by General Assembly of the State of Arkansas.

(J) It shall be unlawful for any person, firm or corporation to construct move any dwelling, home, buildings or other structures onto lands within the corporate limits of Tontitown, Arkansas, unless a building/zoning permit as provided for in this section shall have first been obtained. Violation of this section shall subject the violators to the same penalties as provided in in this section.

(K) The building/zoning administrator shall review each application for a building permit to determine its conformity with the flood hazard resolution and any other ordinance or resolution of the city, and the city shall not approve a building permit in the flood hazard area unless it complies with the requirements of the flood hazard resolution and the requirements of the flood insurance program.

(L) The City Council, by a majority vote, shall establish the fee schedule for issuance of a permit. This schedule may be amended by the City Council from time to time by the same vote. Every building/zoning permit shall become null and void if construction or installation authorized by the permit is not commenced within six (6) months from the date of such permit, or if the construction or installation is abandoned for a period of six (6) months once the construction or installation is commenced. No home, dwelling or building shall be occupied before a certificate of occupancy is issued by the building/zoning official.

(M) Any person aggrieved by the issuance of denial of a building/zoning permit shall be submitted by the aggrieved party in writing to the building/zoning official within ten (10) days of the final decision or issuance. Such appeal shall state the reasons for the appeal, and such appeal shall be heard by the Board of Zoning Adjustments. No appeal submitted after the ten (10) period shall be considered by the Board of Zoning Adjustments.