

ORDINANCE NO. 2019-___

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING CHAPTER 32: CITY POLICIES OF THE TONTITOWN MUNICIPAL CODE IN ORDER TO REVISE CITY POLICIES FOR THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY.

WHEREAS, on or about October 23, 2001 the City Council of Tontitown adopted Ordinance No. 155 to adopt city policies for the City of Tontitown and said Ordinance No. 155, as it has been amended and was thereafter codified within Chapter 32: CITY POLICIES 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 Chapter 32: CITY POLICIES the Tontitown Municipal Code in order to incorporate certain changes; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council as determined that Chapter 32: CITY POLICIES of the Tontitown Municipal Code should be revised and restated as set forth herein below.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the City Council of the City of Tontitown, as follows:

Section 1. That Chapter 32: CITY POLICIES of the Tontitown Municipal Code is hereby revised in its entirety and is attached hereto as Exhibit "A".

Section 2. All other parts and provisions of Chapter 32: CITY POLICIES remain unaffected by this Ordinance and shall remain in full force and effect.

Section 3. 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 4. Declaration of Emergency. It is hereby found and determined that Chapter 32: CITY POLICIES of the Tontitown Municipal Code should be immediately revise city policies for 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 June, 2019.

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Recorder-Treasurer
(SEAL)

§ 32.01 PERIOD WITHIN WHICH REFERENDUM PETITIONS MAY BE FILED.

(A) All referendum petitions under Amendment No. 7 to the Constitution of the State of Arkansas must be filed with the Recorder/Treasurer within thirty (30) days after the passage of any ordinance or resolution.

(B) Upon the filing of the referendum petition, the Mayor is directed to give notice by publication for one insertion in a newspaper having a general circulation in the City of Tontitown, Arkansas, and by posting in five (5) public places in the city of a time not less than five days after the publication of such notice at which the Council will hear all persons who wish to be heard on the question whether such petition is signed by the requisite number of petitioners. At the time named, the Council shall meet and hear all who wish to be heard on the question and its decision shall be final unless suit is brought in the Circuit Court of Washington County, Arkansas within thirty (30) days to review its action.

(C) If the Council finds that such petition is signed by the requisite number of qualified petitioners, it shall order a special election to determine by a vote of the qualified electors whether the ordinance or resolution shall stand or be revoked and fix a date which shall be not less than ten days after the date of the action of the Council calling the election. The Mayor shall give notice of the call of such election by publication in not less than one issue of a newspaper having a general circulation in the city and by posting in five public places in the city not less than five days prior to the date of the election. The notice shall designate by its number, caption and date of passage, the ordinance which has been referred to the people for approval or rejection by their vote at such election. Otherwise, subject to the provisions of Amendment No. 7 to the Constitution of Arkansas and other applicable laws, the election shall be conducted in the manner provided by law for the conduct of a regular municipal election.

(D) If any ordinance or resolution referred to the people is defeated at the polls, the Council shall make note of such fact and shall expunge the ordinance or resolution from its files by erasing the same with red ink.

(Ord. 155, passed 10-23-01)

§ 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 and his or 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; or

(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; or

(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 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 without competitive bidding, 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.

(3) *Council Approval.* Pursuant to Ark. Code. Ann. § 14-42-107(b)(1), the City Council may enact an ordinance specifically permitting a city council member, a city official, or a municipal employee to conduct business with the city in excess of the above dollar amounts listed above and prescribing the extent of this authority.

(H) The City shall observe the following procedures for purchasing, which shall be the purchasing policy for the city. All items purchased in excess of an amount to be determined by the Mayor in a memo to Department Heads shall be assigned purchase orders, which purchase orders shall be approved by the Mayor, or the Mayor's duly authorized representative, prior to any such purchase.

(I) Local Preference encourages local vendor participation in the City's purchasing process and promotes the economic health of the City, while also keeping sales tax within the local economy and increasing the productivity of the City of Tontitown's taxpayer funds. Therefore, when buying supplies, materials, equipment and services for the City's requirements, preference shall be given to dealers who have stores or warehouses within the City when price, quality, delivery, and service are equal. A quote from a Vendor within the State of Arkansas shall be accepted if it does not exceed the lowest qualified quote from an out of state Vendor by more than five percent (5%) pursuant to Ark. Code. Ann. §19-11-259. Geographic preference shall not apply to purchases utilizing federal funds.

(J) City Credit Card Use

The City of Tontitown holds credit cards that are for City use and are only to be used for City purchases by authorized employees in accordance with these procedures:

(1) Card Administrator

A Credit Card Administrator for the City of Tontitown shall be designated by the Mayor.

(2) Purchasing Process

Purchases to be made with the use of a City Credit Card shall be performed in accordance with Section 32.02(H) herein.

(3) Documentation of Purchase for City Purpose

The City of Tontitown requires the retention of all receipts and other documentation associated with a city credit card purchase. As with other city purchases, the original itemized sales slips, cash register receipts, invoices, order forms and receiving documents shall be retained. All receipts shall be turned into the Card Administrator as soon as reasonably possible after a purchase. If a transaction receipt is misplaced or not received, the user shall be responsible for contacting the vendor and obtaining a duplicate copy of the receipt. Failure to do so may result in discipline up to and including termination.

(4) Dispute of Purchases

If an item is not satisfactory, received in error, damaged, defective, duplicate order, etc., the purchasing employee is responsible for contacting and following up with the vendor on any erroneous charges or disputed charges as soon as possible. In such an event, the Card Administrator must be notified immediately.

(J) Each city council member, 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; Am. Ord. 2017-01-611, passed 1-3-17)

§32.03 CREDIT CARD CONVENIENCE FEES.

(A) The city utilizes the company SOFTtelPay for any services customers use for credit card payments, and may from time to time switch to other credit card vendors who will assess convenience fees. The City Council finds that convenience fees should be passed along to the customer at the rate which is charged to the city for payment of services by credit card.

(B) The credit card convenience fees shall be assessed to the customer as follows:

<u>Payment Amount</u>	<u>Convenience Fee</u>
\$0-\$30	\$1.95
\$30.01-\$60	\$2.95
\$60.01-\$90	\$3.95
\$90.01-\$120	\$4.95
\$120.01-\$150	\$5.95
\$150.01-\$180	\$6.95
\$180.01-\$210	\$7.95
\$210.01 and above	4% of payment amount

(Ord. 2017-03-620, passed 3-7-17)

§ 32.04 PROCEDURE FOR INTRODUCTION OF RESOLUTIONS AND ORDINANCES.

(A) Any resolution or ordinance to be discussed at the City Council meeting shall be first submitted to a city council member or Mayor to be placed on the agenda.

(B) Any city council member wishing to place an item on the agenda shall submit to the City Attorney for review said item at least one (1) week prior to the occurrence of the next regular

City Council meeting. Special meeting notices shall contain any resolution and/or ordinance if such item will be discussed at the special meeting.

(C) Once an item is on the agenda, the sponsoring city council member is responsible for moving the introduction of said item to the City Council for appropriate action.

(Ord. 2005-7-223, passed 7-5-05; Am. Ord. 2006-01-245, passed 1-3-06)

§ 32.05 CONFLICT OF INTEREST POLICY FOR MEMBERS AND OFFICIALS.

(A) *Introduction; purpose.*

(1) *In general.*

(a) The city has adopted this conflict of interest policy (the “policy”) with respect to its members and officials. All City Council members and officials should be provided with this policy upon commencement of employment, election or appointment and required to acknowledge that they have read, understand and are in compliance with the terms of the policy. City Council members and officials should review on an ongoing basis circumstances that constitute a conflict of interest or the appearance of a conflict of interest, abide by this policy, and seek guidance when necessary and appropriate.

(b) This policy is intended to supplement, but not replace, any applicable local, state, and federal laws governing conflicts of interest applicable to public authorities.

(2) *Required filings.* City Council members and officials are required to file an annual disclosure report with the Clerk/Recorder for the city pursuant to A.C. § 21-8-703, as may be amended from time to time.

(3) *Conflicts of interest.*

(a) A conflict of interest is a situation in which the financial, familial, or personal interest of a City Council member or official come into actual or perceived conflict with his or her duties and responsibilities with the city. Perceived conflicts of interest are situations where there is the appearance that a City Council member or official can personally benefit from actions or decisions made in his or her official capacity, or where a City Council member or official may be influenced to act in a manner that does not represent the best interests of the city. The perception of a conflict may occur if circumstances would suggest to reasonable person that a City Council member or official may have a conflict. The appearance of a conflict and an actual conflict should be treated in the same manner for the purposes of the policy.

(b) A City Council member or official shall not be deemed to have any apparent or actual conflict of interest by virtue of his or her status as an official or employee of the city, or by his or her status as the owner of property, or affiliation with any organization that owns property, connected to the water or wastewater system of the city.

(c) City Council members and officials must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced or that they are acting in a violation of the public trust. While it is not possible to describe or anticipate all the circumstances that might involve a conflict of interest, a conflict of interest typically arises whenever a City Council member or official has or will have:

1. A financial or personal interest, either directly or indirectly, in any person, firm, corporation, or association that has or will have a transaction, agreement or any other arrangement in which the city participates.

2. The ability to use his or her position, confidential information or the assets of the city to his or her personal advantage.

3. Solicited or accepted a gift of any amount under circumstances in which it could reasonably be inferred that the gift was intended to influence or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any action on his or her part.

4. Any other circumstances that may make or appear to make it difficult for the City Council or official to exercise independent judgment and properly exercise his or her official duties.

If a City Council member or official has a question as to whether a conflict of interest exists, he or she may contact the Arkansas Ethics Commission for clarification and advice.

(d) *Exception.* As provided in Ark. Code. Ann. § 14-42-107, it may not be deemed a conflict of interest with regards to contracts for furnishing supplies, equipment, or services to be performed for the city by a corporation in which no city council member, official, or municipal employee holds any executive or managerial office or by a corporation in which a controlling interest is held by stockholders who are not city council members.

(B) *Procedures.*

(1) *Duty to disclose.* All material facts related to an actual or apparent conflict of interest, including the nature of the interest and information about a conflicting transaction, if any, shall be disclosed in good faith and in writing to the city's Mayor and Clerk/Recorder, except where a City Council Member recuses himself or herself from all deliberations, votes or internal discussion on matters relating to an actual or apparent conflict of interest. Such written disclosure shall be retained by Clerk/Recorder.

(2) *Recusal and abstention.* No City Council member or official may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any organization in which he or she is deemed to have an interest. City Council members and officials must recuse themselves from deliberations, votes, or internal discussion on matters relating to any organization, entity or individual where their impartiality in the deliberation or vote might be reasonably questioned, and they are prohibited from attempting to influence other City Council members and officials in the deliberation and voting on the matter.

(3) *Records of conflict of interest.* When appropriate, the minutes of the city's meeting during which a perceived or actual conflict of interest is disclosed or discussed shall reflect the name of the interested person, the nature of the conflict, and a description of how the conflict was resolved.

(4) *Reporting of violations.* City Council members and officials should promptly report any violations of the policy to the City Mayor.

(5) *Penalties.* Any City Council member or official who fails to comply with this policy may be penalized in the manner provided for in law, rules or regulation.

(6) *Council approval.* Pursuant to Ark. Code Ann. § 14-42-107, the City Council may enact an ordinance specifically permitting city council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.

(C) *Acknowledgment.* An acknowledgment shall be signed and dated by City Council members and officials as follows:

I have read and I understand this Conflict of Interest Policy for city council members and officials. I have had an opportunity to thoroughly review and ask any question(s) that I may have about it.

Signed _____

Printed Name _____

Date _____

(Ord. 2016-11-603, passed 11-1-16)

 **§ 32.06 AUDIO RECORDING REQUIRED FOR ALL CITY MEETINGS.**

(A) All meetings of the City Council, any commission or committee of the city, and any board or other body created by the City Council or appointed by the Mayor, shall be audio recorded as required by law and shall thereafter be maintained in the city records.

(B) The recording shall be delivered to the City Recorder/Treasurer the next business day following the meeting, and shall thereafter be maintained in the city records.

(Ord. 2007-08-299, passed 8-7-2007)

 **§ 32.07 REMOVAL OF ELECTED OFFICERS FOUND GUILTY OF NONFEASANCE IN OFFICE.**

(A) If the mayor, a member of the City Council, or any other elective officer of the city shall willfully and knowingly fail, refuse or neglect to execute, or cause to be executed, any of the laws or ordinances within their jurisdiction, they shall be deemed guilty of nonfeasance in office as such term is used in Ark. Code. Ann. § 14-42-109.

(B) If the City Council determines that the mayor, a member of the City Council, or any elective officer has committed nonfeasance in office as defined Ark. Code Ann. § 14-42-109, the City Council may by majority vote recommend the matter to the proper authorities for consideration pursuant to the procedures provided in Ark. Code Ann. § 14-42-109.

(C) If a judgment of record is entered removing the guilty officer from office, removal, replacement and/or reinstatement shall be in accordance with the procedure provided in Ark. Code Ann. § 14-42-109.

(Ord. 2007-11-302, passed 11-6-07)

§ 32.08 DISTRIBUTION OF MAIL.

Section 32.08 Distribution of Mail is repealed in its entirety.

Editor's note: For provisions regarding the distribution of city mail, see Resolution No. 2008-03-150, passed 3-4-08.

32.09 CITY COMPUTERS TO BE KEPT AT CITY HALL.

(A) Except as specifically provided in this section, all computers, including laptop computers, owned or leased by the city shall be kept at City Hall during normal business hours.

(B) City-owned or leased laptop computers may be checked out for use by a city official or employee at a location other than City Hall only under the following conditions:

(1) The computer may not remain away from City Hall for a period greater than forty-eight (48) hours;

(2) The city official or employee is using the computer strictly for city business;

(3) The city official or employee is using the computer on a trip for city business which requires the city official or employee to travel to a location more than 100 miles from City Hall or to stay overnight at a location other than the city official's or employee's residence; and

(C) This section shall not prevent a computer from being taken offsite for service or repair.

(D) This section shall not apply to, or be interpreted to prevent, the offsite backup or archiving of electronic information.

(E) This section shall not prevent a city official or employee from taking a laptop computer home to work on city business after hours, provided that in the case of a city employee, the employee is authorized by his or her direct supervisor to check out the computer.

(Ord. 2009-01-329, passed 1-6-09)

§ 32.10 ACCESS TO THE MAYOR'S OFFICE AT CITY HALL.

(A) City Hall, being a public property, shall remain open for business during normal business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday except for holidays and times of inclement weather or emergency, as determined by the Mayor or Chief of Police.

(Ord. 2009-01-328, passed 1-6-09)

§ 32.01 PERIOD WITHIN WHICH REFERENDUM PETITIONS MAY BE FILED.

(A) All referendum petitions under Amendment No. 7 to the Constitution of the State of Arkansas must be filed with the Recorder/Treasurer within thirty (30) days after the passage of any ordinance or resolution.

(B) Upon the filing of the referendum petition, the Mayor is directed to give notice by publication for one insertion in a newspaper having a general circulation in the City of Tontitown, Arkansas, and by posting in five (5) public places in the city of a time not less than five days after the publication of such notice at which the Council will hear all persons who wish to be heard on the question whether such petition is signed by the requisite number of petitioners. At the time named, the Council shall meet and hear all who wish to be heard on the question and its decision shall be final unless suit is brought in the Chancery-Circuit Court of Washington County, Arkansas within thirty (30) days to review its action.

(C) If the Council finds that such petition is signed by the requisite number of qualified petitioners, it shall order a special election to determine by a vote of the qualified electors whether the ordinance or resolution shall stand or be revoked and fix a date which shall be not less than ten days after the date of the action of the Council calling the election. The Mayor shall give notice of the call of such election by publication in not less than one issue of a newspaper having a general circulation in the city and by posting in five public places in the city not less than five days prior to the date of the election. The notice shall designate by its number, caption and date of passage, the ordinance which has been referred to the people for approval or rejection by their vote at such election. Otherwise, subject to the provisions of Amendment No. 7 to the Constitution of Arkansas and other applicable laws, the election shall be conducted in the manner provided by law for the conduct of a regular municipal election.

(D) If any ordinance or resolution referred to the people is defeated at the polls, the Council shall make note of such fact and shall expunge the ordinance or resolution from its files by erasing the same with red ink.

(Ord. 155, passed 10-23-01)

§ 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 and his or 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; or

(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; or

(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 without competitive bidding, 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.

(3) Council Approval. Pursuant to Ark. Code. Ann. § 14-42-107(b)(1), the City Council may enact an ordinance specifically permitting Aldermen, Council members, a city council member, a city officials, or a municipal employees to conduct business with the city in excess of the above dollar amounts listed above and prescribing the extent of this authority.

(H) ~~The Mayor, or the Mayor's duly authorized representative,~~The City shall observe the following procedures for purchasing, which shall be the purchasing policy for the city. All items purchased in excess of an amount to be determined by the Mayor in a memo to Department Heads ~~should~~ shall be assigned purchase orders, which purchase orders shall be approved by the Mayor, or the Mayor's duly authorized representative, prior to any such purchase.

1. Cost Savings:

In an effort to achieve the best cost savings for the citizens of the City of Tontitown, the following procedures shall be followed: (1) [Less than \$3,000.00.] Purchase Orders may be issued for purchases or contracts where the expenditure therefor is less than \$3,000.00 without securing quotes. (2) [More than \$3,000.00, but less than \$8,000.00.] Purchase orders may be issued where the expenditure is more than \$3,000.00, but less than \$8,000.00 after securing three oral bids therefor. (3) [More than \$8,000.00, but less than \$20,000.00.] Purchase Orders may be issued where the expenditure therefor is more than \$8,000.00, but less than \$20,000.00 after the securing of three or more written bids. If three written bids are not obtained, the Purchase Order must show the names of at least three firms contacted in attempting to obtain competition or note the reason three firms were not contacted.

2. Waiver of the requirement for quotes:

The Mayor may waive the requirements of this section for competitive quotes less than \$20,000 in exceptional situations where this procedure is deemed not feasible or practical.

(I)

3. Local Preference:

Local Preference encourages local vendor participation in the City's purchasing process and promotes the economic health of the City, while also keeping sales tax within the local economy and increasing the productivity of the City of Tontitown's taxpayer funds. Therefore, when buying supplies, materials, equipment and services for the City's requirements, preference shall be given to dealers who have stores or warehouses within the City when price, quality, delivery, and service are equal. A quote from a Vendor within the State of Arkansas shall be accepted if it does not exceed the lowest qualified quote from an out of state Vendor by more than five percent

(5%) pursuant to Ark. Code Ann. C.A. §19-11-259. Geographic preference shall not apply to purchases utilizing federal funds.

(H)(J) City Credit Card Use

The City of Tontitown holds credit cards that are for City use and are only to be used for City purchases by authorized employees in accordance with these procedures:-

(1) Card Administrator

The Credit Card Administrator for the City of Tontitown shall be designated by the Mayor.

(2) Purchasing Process

Purchases to be made with the use of a City Credit Card shall be performed in accordance with Section 32.02(H) herein.

(3) Documentation of Purchase for City Purpose

(3)

Standard auditing proceduresThe City of Tontitown requires the retention of all receipts and other documentation associated with a city credit card purchase. As with any other city purchases, transaction you must retain the original itemized sales slips, cash register receipts, invoices, order forms and receiving documents shall be retained. All receipts shall be turned into the Card Administrator as soon as reasonably possible after a purchase. If a transaction receipt is misplaced or not received, the user shall be responsible for contacting the vendor and obtaining a duplicate copy of the receipt. Failure to do so may result in the user paying the cost from his/her own pocket discipline up to and including termination.

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If an item is not satisfactory, received in error, damaged, defective, duplicate order, etc., the user purchasing employee is responsible for contacting and following up with the vendor on any erroneous charges or disputed charges as soon as possible. The In such an event, the Card Administrator must be notified immediately.

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§32.03 CREDIT CARD CONVENIENCE FEES.

(A) The city utilizes the company SOFTtelPay for any services customers use for credit card payments, and may from time to time switch to other credit card vendors who will assess

convenience fees. The City Council finds that convenience fees should be passed along to the customer at the rate which is charged to the city for payment of services by credit card.

(B) The credit card convenience fees shall be assessed to the customer as follows:

<u>Payment Amount</u>	<u>Convenience Fee</u>
\$0-\$30	_____ \$1.95
\$30.01-\$60	_____ \$2.95
\$60.01-\$90	_____ \$3.95
\$90.01-\$120	_____ \$4.95
\$120.01-\$150	_____ \$5.95
\$150.01-\$180	_____ \$6.95
\$180.01-\$210	_____ \$7.95
\$210.01 and above	4% of payment amount

(Ord. 2017-03-620, passed 3-7-17)

§ 32.04 PROCEDURE FOR INTRODUCTION OF RESOLUTIONS AND ORDINANCES.

(A) Any resolution or ordinance to be discussed at the City Council meeting shall be first submitted to an city council member ~~alderman~~ or Mayor to be placed on the agenda.

(B) Any ~~alderman~~ city council member wishing to place an item on the agenda shall submit to the City Attorney for review said item at least ~~three~~ one (1) ~~business-week days~~ prior to the occurrence of the next regular City Council meeting. Special meeting notices shall contain any resolution and/or ordinance if such item will be discussed at the special meeting.

(C) Once an item is on the agenda, the sponsoring ~~alderman~~ city council member is responsible for moving the introduction of said item to the City Council for appropriate action.

(Ord. 2005-7-223, passed 7-5-05; Am. Ord. 2006-01-245, passed 1-3-06)

§ 32.05 CONFLICT OF INTEREST POLICY FOR MEMBERS AND OFFICIALS.

(A) *Introduction; purpose.*

(1) *In general.*

(a) The city has adopted this conflict of interest policy (the “policy”) with respect to its members and officials. All City Council members and officials should be provided with this policy upon commencement of employment, election or appointment and required to acknowledge that they have read, understand and are in compliance with the terms of the policy. City Council members and officials should review on an ongoing basis circumstances that constitute a conflict of interest or the appearance of a conflict of interest, abide by this policy, and seek guidance when necessary and appropriate.

(b) This policy is intended to supplement, but not replace, any applicable local, state, and federal laws governing conflicts of interest applicable to public authorities.

(2) *Required filings.* City Council members and officials are required to file an annual disclosure report with the Clerk/Recorder for the city pursuant to A.C. § 21-8-703, as may be amended from time to time.

(3) *Conflicts of interest.*

(a) A conflict of interest is a situation in which the financial, familial, or personal interest of a City Council member or official come into actual or perceived conflict with his or her duties and responsibilities with the city. Perceived conflicts of interest are situations where there is the appearance that a City Council member or official can personally benefit from actions or decisions made in his or her official capacity, or where a City Council member or official may be influenced to act in a manner that does not represent the best interests of the city. The perception of a conflict may occur if circumstances would suggest to reasonable person that a City Council member or official may have a conflict. The appearance of a conflict and an actual conflict should be treated in the same manner for the purposes of the policy.

(b) A City Council member or official shall not be deemed to have any apparent or actual conflict of interest by virtue of his or her status as an official or employee of the city, or by his or her status as the owner of property, or affiliation with any organization that owns property, connected to the water or wastewater system of the city.

(c) City Council members and officials must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced or that they are acting in a violation of the public trust. While it is not possible to describe or anticipate all the circumstances that might involve a conflict of interest, a conflict of interest typically arises whenever a City Council member or official has or will have:

1. A financial or personal interest, either directly or indirectly, in any person, firm, corporation, or association that has or will have a transaction, agreement or any other arrangement in which the city participates.

2. The ability to use his or her position, confidential information or the assets of the city to his or her personal advantage.

3. Solicited or accepted a gift of any amount under circumstances in which it could reasonably be inferred that the gift was intended to influence or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any action on his or her part.

4. Any other circumstances that may make or appear to make it difficult for the City Council or official to exercise independent judgment and properly exercise his or her official duties.

If a City Council member or official has a question as to whether a conflict of interest exists, he or she may contact the Arkansas Ethics Commission for clarification and advice.

(d) *Exception.* As provided in ~~Ark. Code. Ann. §~~ 14-42-107, it may not be deemed a conflict of interest with regards to contracts for furnishing supplies, equipment, or services to be

performed for the city by a corporation in which no ~~city alderman~~, council member, official, or municipal employee holds any executive or managerial office or by a corporation in which a controlling interest is held by stockholders who are not ~~city Alderman or c~~Council members.

(B) *Procedures.*

(1) *Duty to disclose.* All material facts related to an actual or apparent conflict of interest, including the nature of the interest and information about a conflicting transaction, if any, shall be disclosed in good faith and in writing to the city's Mayor and Clerk/Recorder, except where a City Council Member recuses himself or herself from all deliberations, votes or internal discussion on matters relating to an actual or apparent conflict of interest. Such written disclosure shall be retained by Clerk/Recorder.

(2) *Recusal and abstention.* No City Council member or official may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any organization in which he or she is deemed to have an interest. City Council members and officials must recuse themselves from deliberations, votes, or internal discussion on matters relating to any organization, entity or individual where their impartiality in the deliberation or vote might be reasonably questioned, and they are prohibited from attempting to influence other City Council members and officials in the deliberation and voting on the matter.

(3) *Records of conflict of interest.* When appropriate, the minutes of the city's meeting during which a perceived or actual conflict of interest is disclosed or discussed shall reflect the name of the interested person, the nature of the conflict, and a description of how the conflict was resolved.

(4) *Reporting of violations.* City Council members and officials should promptly report any violations of the policy to the City Mayor.

(5) *Penalties.* Any City Council member or official who fails to comply with this policy may be penalized in the manner provided for in law, rules or regulation.

(6) *Council approval.* Pursuant to ~~Ark. Code Ann. c~~ § 14-42-107, the City Council may enact an ordinance specifically permitting ~~city Aldermen, c~~Council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.

(C) *Acknowledgment.* An acknowledgment shall be signed and dated by City Council members and officials as follows:

I have read and I understand this Conflict of Interest Policy for ~~c~~City ~~c~~Council members and officials. I have had an opportunity to thoroughly review and ask any question(s) that I may have about it.

Signed _____

Printed Name _____

Date _____

(Ord. 2016-11-603, passed 11-1-16)

§ 32.06 AUDIO RECORDING REQUIRED FOR ALL CITY MEETINGS.

(A) All meetings of the City Council, any commission or committee of the city, and any board or other body created by the City Council or appointed by the Mayor, shall be audio recorded as required by law and shall thereafter be maintained in the city records.

~~—(B) The recording shall be delivered to the City Recorder/Treasurer the next business day following the meeting, and shall thereafter be maintained in the city records.~~

(Ord. 2007-08-299, passed 8-7-2007)

§ 32.07 REMOVAL OF ELECTED OFFICERS FOUND GUILTY OF NONFEASANCE IN OFFICE.

(A) If the mayor, a member of the City Council, or any other elective officer of the city shall willfully and knowingly fail, refuse or neglect to execute, or cause to be executed, any of the laws or ordinances within their jurisdiction, they shall be deemed guilty of nonfeasance in office as such term is used in Ark. Code Ann.A.C. § 14-42-109.

(B) If the City Council determines that the mayor, a member of the City Council, or any elective officer has committed nonfeasance in office as defined Ark. Code Ann.-C. § 14-42-109, the City Council may by majority vote recommend the matter to the proper authorities for consideration pursuant to the procedures provided in Ark. Code Ann.-C. § 14-42-109.

(C) If a judgment of record is entered removing the guilty officer from office, removal, replacement and/or reinstatement shall be in accordance with the procedure provided in Ark. Code Ann.A.C. § 14-42-109.

(Ord. 2007-11-302, passed 11-6-07)

§ 32.08 DISTRIBUTION OF MAIL.

Section 32.08 Distribution of Mail is repealed in its entirety.

Editor's note: For provisions regarding the distribution of city mail, see Resolution No. 2008-03-150, passed 3-4-08.

32.09 CITY COMPUTERS TO BE KEPT AT CITY HALL.

(A) Except as specifically provided in this section, all computers, including laptop computers, owned or leased by the city shall be kept at City Hall during normal business hours.

(B) City-owned or leased laptop computers may be checked out for use by a city official or employee at a location other than City Hall only under the following conditions:

(1) The computer may not remain away from City Hall for a period greater than forty-eight (48) hours;

(2) The city official or employee is using the computer strictly for city business;

(3) The city official or employee is using the computer on a trip for city business which requires the city official or employee to travel to a location more than 100 miles from City Hall or to stay overnight at a location other than the city official's or employee's residence; and

~~—(4) The city official or employee has checked out the computer with the City Administrative Assistant on a form prepared by the Recorder/Treasurer for that purpose which records: the serial number of the computer, the person checking out the computer, the destination and purpose for which the computer is being taken, the time and date it was checked out, the estimated time and date of its return, the actual time and date of return, and the signature of the person checking out the computer and returning the computer.~~

(C) This section shall not prevent a computer from being taken offsite for service or repair. ~~However, when a computer is taken for service or repair it shall be checked out in accordance with the procedure provided for in this section.~~

(D) This section shall not apply to, or be interpreted to prevent, the offsite backup or archiving of electronic information.

(E) This section shall not prevent a city official or employee from taking a laptop computer home to work on city business after hours, provided that:

~~(1) The computer is checked out in accordance with the procedure provided in this section;~~

~~—(2) The computer is checked out after normal business hours and returned before normal business hours the following business day; and~~

~~—(3) In the case of a city employee, the employee is authorized by his or her direct supervisor to check out the computer.~~

(Ord. 2009-01-329, passed 1-6-09)

§ 32.10 ACCESS TO THE MAYOR'S OFFICE AT CITY HALL.

(A) ~~The Mayor's Office located at~~ City Hall, being a public property, shall remain for open business unlocked during normal business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday except for holidays and times of inclement weather or emergency, as determined by the Mayor or Chief of Police. ~~except as specifically provided in this section.~~

(B) ~~The Mayor's Office may be kept locked during normal business hours for routine security purposes only if there is on file with the City Administrative Assistant, or other person as may from time to time be designated by the City Council, a copy of all keys, electronic codes or passwords necessary to gain access to the Mayor's Office.~~

(Ord. 2009-01-328, passed 1-6-09)