

ORDINANCE NO. 2021-__

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING IN ITS ENTIRETY CHAPTER 30: CITY COUNCIL AND CITY OFFICIALS OF THE TONTITOWN MUNICIPAL CODE OF THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY.

WHEREAS, Ark. Code Ann. § 14-43-501 sets forth that each city shall annually assemble and organize the governing body; and

WHEREAS, on or about March 3, 2019, the City Council of the City of Tontitown adopted Ordinance No. 2019-03-832 which amended the rules regulating city council meetings set forth in Chapter 30: CITY COUNCIL AND CITY OFFICIALS in the Tontitown Municipal Code; and

WHEREAS, the City of Tontitown has become a first-class city and the City Council of the City of Tontitown has reviewed and discussed these rules and now finds it to be in the best interest of the citizens of the City of Tontitown to amend in its entirety Section Chapter 30: CITY COUNCIL AND CITY OFFICIALS of the Tontitown Municipal Code; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Chapter 30: CITY COUNCIL AND CITY OFFICIALS 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. That Chapter 30: CITY COUNCIL AND CITY OFFICIALS, of the Tontitown Municipal Code is hereby revised in its entirety, and shall now read as follows:

See Attached 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 5. Declaration of Emergency. It is hereby found and determined that Section Chapter 30: CITY COUNCIL AND CITY OFFICIALS, of the Tontitown Municipal Code should be immediately amended in order to provide regulations during city council meetings 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 _____, 2021.

APPROVED:

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Clerk-Treasurer
(SEAL)



CHAPTER 30: CITY COUNCIL AND CITY OFFICIALS

Section

City Council

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CITY COUNCIL

§ 30.01 MEETINGS OF THE COUNCIL; TIME AND NOTICE.

(A) The date for the regular legislative meetings of the City Council shall be on the first Tuesday of each month, unless rescheduled by a simple majority vote of the Council. The City Council also meets as the Committee of the Whole on the Third Tuesday of each month.

(B) The City Council shall provide the times and places of holding its meeting, which shall be open at all times to the public.

(C) (1) The Mayor or any two Aldermen may call a special meeting when it is necessary for the transaction of any special business before the next regular meeting. It shall be the duty of the City Clerk-Treasurer to give cause of a written notice and one contact call of all special meetings to be served on each member of the City Council. It shall be the duty of the City Clerk-Treasurer to cause actual notice, whether in writing, in person, by telephone, email, or fax of all special meetings to be served on each member of the City Council, at least two hours before such meeting(s), specifying therein general terms the particular business to be brought before the City Council.

(2) Only the Aldermen, who requested the special meeting, or the Mayor, if he or she requested the special meeting, may cancel the special meeting.

(3) At any special meeting, no other business shall be transacted other than that for which such meeting was called. All such meetings shall be open to the public, and all press and media that have requested notice must be given at least two hours advance

notification. Outside of this advance notification requirement, there shall be no other time constraints on how soon a special meeting may be called after due notice is given to the Aldermen.

(D) The Clerk-Treasurer shall prepare an informational packet for any regular meeting and post a copy to the internet no later than noon on Friday prior to the meeting. The informational packet should include, if applicable: an agenda, minutes to be approved from prior meeting(s), any documents relating to any agenda submitted by the sponsor of said agenda item; any ordinance or written resolution to be considered; monthly or other periodic financial statements; any written committee reports; and any other item the Clerk-Treasurer deems appropriate.

(E) Delivery of the paper draft agenda and informational material available at the time shall be available for pick up at City Hall and sent via email no later than noon on Friday prior to the meeting.

(F) The Mayor and any of the City Council may sponsor items on any meeting agenda. (Ord. 14, passed 7-11-16; Am. Ord. 2005-3-204, passed 3-1-05; Am. Ord. 2006-12-05-275, passed 12-5-06; Am. Ord. 2009-04-335, passed 4-7-09; Am. Ord. 2012-10-398, passed 10-2-12; Am. Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15; Am. Ord. 2019-02-828, passed 2-5-19; Am. Ord. 2019-03-832, passed 3-5-19)

§ 30.02 COMPENSATION.

(A) From and beginning the first Monday of May, 1933, the Mayor of the incorporated city shall receive a compensation for his or her services to the city in an amount as determined by the City Council from time to time.

(B) The Clerk-Treasurer shall receive as compensation for his or her services to the city in an amount as determined by the City Council from time to time.

(C) Regardless of attendance, each Council member shall receive \$300 per meeting as compensation for attending a regular Council meeting. Each Council member shall receive \$300 per Committee of the Whole meeting as compensation. For each special meeting, a Council member shall receive \$100 in compensation. If a special meeting is scheduled on the same day and time as a regular meeting or a Committee of the Whole meeting, the compensation fee for the special meeting shall not be provided.

(Ord. 30, passed 4-1-35; Am. Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15; Am. Ord. 2015-08-538, passed 8-11-15; Am. Ord. 2019-02-828, passed 2-5-19; Am. Ord. 2019-03-832, passed 3-5-19)

§ 30.03 EXECUTIVE SESSION.

(A) The only time the City Council may meet and exclude the media and the public is in executive session. Executive sessions are permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplinary action or resignation of any public officer or employee. This may not include general discussion about making policies related to these subjects.

(B) An executive session may be convened on the request of any member of the City Council or the Mayor, but shall be preceded by an announcement made in public as to the

general reason for which the session is to be held. The City Clerk-Treasurer shall not be in executive session.

(C) Actions taken in executive session shall become legal only after the City Council ratifies the action with a public vote in open session.

(Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15)

§ 30.04 QUORUM.

The presence of a majority of the City Council members elected to the City Council shall be necessary to constitute a quorum to conduct business; provided however, at any regular meeting of the City Council, the Mayor shall have a vote to establish a quorum of the City Council. This provision shall not be applicable to establishing a quorum for a special meeting of the City Council.

(Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15)

§ 30.05 ORDER OF BUSINESS.

Regular sessions of the City Council shall proceed under the following pattern; which shall be reduced to writing in the form of an agenda distributed to Council members prior to the meeting:

- (A) Call to order;
- (B) Roll call;
- (C) Pledge of allegiance;
- (D) Approval of the minutes;
- (E) Public comment;
- (F) Old business; presentation of ordinances, resolutions, motions or discussion items;
- (G) New business; presentation of ordinances, resolutions, motions or discussion items;
- (H) Reports from the Mayor, the City Council and the City Attorney if any;
- (I) Announcements; and
- (J) Adjournment.

(Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15; Am. Ord. 2019-02-828, passed 2-5-19; Am. Ord. 2019-03-832, passed 3-5-19)

§ 30.06 PUBLIC COMMENTS.

(A) There shall be a 15-minute public comment period during regular meetings of the City Council of not more than 15 minutes in which the City Council shall receive comments from members of the public. The City Council shall listen, but not enter into discussions or debate the person commenting. The Council may take note of any comment and offer to make arrangements to speak further with that person after the Council meeting concludes or a later date.

(B) Each speaker during public comment session shall be limited to three minutes to make his or her remarks. If more than five people desire to speak at either session, the Mayor or Chair may reduce the time for each speaker to two minutes. The Mayor may also

provide for an extension of the 15-minute public comment period, upon the receipt of a motion and majority consent of the City Council, if good cause exists.

(C) The Mayor or presiding officer shall administer public comment periods and shall be responsible for enforcing time limits on speakers and shall direct and insure that speakers during public comment period refrain from the use of obscene, abusive, personal attacks, inflammatory language or other improper or disruptive conduct.

(D) Individuals who use obscene or abusive language or make obscene gestures under conditions likely to provoke a disorderly response from persons present at the meeting, or to disrupt the orderly conduct of the meeting, may be cited, or if deemed necessary by the Chief of Police or his/her designee, arrested for disorderly conduct or other appropriate criminal violations. Violators who persist in the use of the use of obscene, abusive, personal attacks, inflammatory language or other improper or disruptive conduct may be prohibited from speaking during public comment period. However, no speaker is to be curtailed for remarks that are merely critical in nature.

(E) This section shall not affect statutorily required public hearing periods held during City Council meetings. During such statutorily required public hearing periods, the Mayor or the presiding officer shall administer and set forth the rules of the public comment period in a manner to insure that all person wishing to be heard have their opportunity to speak.

(Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15; Am. Ord. 2016-07-585, passed 7-5-16; Am. Ord. 2019-02-828, passed 2-5-19; Am. Ord. 2019-03-832, passed 3-5-19)

§§ 30.07 - 30.25 [RESERVED].

§ 30.26 RULES GOVERNING CONDUCT IN MEETINGS.

(A) The City Council shall have the authority to adopt such rules governing its meetings as it may deem expedient. Except as provided by rules adopted by the City Council, in all matters of procedure the Procedural Rules for Municipal Officials as published by Arkansas Municipal League, newly revised, shall govern and apply.

(B) The City Council's rules and order of business shall be observed in all cases, unless suspended temporarily for a special purpose of an emergency nature by any rule, and such motions must be seconded to entitle it to consideration.

(C) If any Council member, in speaking or otherwise, transgresses the rules of the Council, the Mayor or presiding officer shall call him or her to order; in which case the Council member so called to order shall immediately cease discussion unless permitted by the presiding officer to explain; and the Council, if appealed to, shall decide the question without debate. If the decision is in favor of the Council member so called to order, he or she shall be at liberty to proceed; if otherwise, he or she shall not proceed without leave of the Council to proceed in order.

(D) A Council member about to speak shall respectfully address the Mayor or presiding officer, and shall not commence to speak until recognized by the Mayor or presiding officer. When two or more Council members request to speak at the same time, the Mayor or presiding officer shall determine which one is recognized. The Mayor or presiding officer

shall have the authority and discretion to recognize city officers, agents, contractors or employees to address the City Council to speak about topics related to the business before the City Council.

(E) Every Council member, while speaking, shall confine himself or herself to the subject under debate, refrain from personalities and shall not refer to any other Council member except in a respectful manner.

(F) Unless a Council member who has the floor yields for that purpose, no other Council member shall interrupt another while speaking.

(G) If a Council member speaks more than twice or for more than five minutes continuously to any one question, the Mayor or presiding officer upon motion and majority consent of the City Council, may conclude the Council member's discussion. The reading of papers desired by any member shall be read by himself or herself or by the City Clerk within the member's time limitation unless permission for the Clerk-Treasurer to read such paper outside the time limitations is granted by a majority.

(Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15; Am. Ord. 2016-07-585, passed 7-5-16)

§ 30.27 CONDUCT OF SPECTATORS.

(A) It shall be the duty of the Chief of Police or his or her designee to be present and on official duty at all special and regular meetings of the City Council.

(B) Except during such periods of time at such meetings as the City Council shall set aside for public comment, members of the public shall not interrupt or disturb the proceedings in any manner by voice, actions, or otherwise.

(C) During periods set aside for public discussion of any nature, any person desiring to speak shall secure the permission of the presiding officer by first silently raising his hand and being recognized. The use of profanity, obscene language, threats, or any violent or abusive conduct by any person is prohibited.

(D) It shall be the duty of the Chief of Police or his or her designee to evict any person violating the provisions of this section from the Council Meeting chambers.

(E) No member of the public shall address the Mayor or Council during a regular meeting, outside of the public comment period, unless properly recognized by the Mayor or the presiding officer, or upon a motion and majority consent of the Council.

(Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15; Am. Ord. 2016-07-585, passed 7-5-16)

§ 30.28 PETITIONS.

Any citizen desiring to submit a petition to the City Council concerning an item to be considered on the agenda, may present the petition to any Council member.

(Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15)

§ 30.29 CONSIDERATION OF ORDINANCE.

(A) Any ordinance that has not been subject to a public hearing, such as a zoning ordinance, shall be considered by the Committee of the Whole before the ordinance is

placed on the regular meeting agenda of the City Council, unless such requirement is waived by two-thirds vote of the City Council;

(B) Nothing in this section shall prohibit any Council member from presenting an ordinance to the full City Council, after it has been reviewed by the Committee of the Whole, regardless of what the Committee of the Whole recommends concerning the ordinance.

(Ord. 2013-02-406, passed 2-5-13; Am. Ord. 2015-01-503, passed 1-6-15)

CITY OFFICIALS

§ 30.50 CITY ATTORNEY.

(A) Appointed City Attorney. The office of City Attorney for the City of Tontitown, Arkansas is hereby established as an appointed position.

(1) Either the Mayor or any Alderman may present a name for the appointment of City Attorney. The appointment shall be approved by a majority vote of the City Council.

(2) The duties of the City Attorney shall be those as set forth in A.C. § 14-42-112 and such other duties as provided by state law or which may be prescribed by ordinance.

(3) The compensation of the City Attorney shall be set on an hourly basis or a fee for services based on the work performed from time to time.

(4) The City of Tontitown shall have an appointed City Attorney until such time as the city is determined by the decennial census to exceed 5,000 persons in population. At such time, the city shall hire legal counsel to provide legal representation.

(B) Elected City Attorney.

(1) The duties of the elected City Attorney shall be only those which are absolutely required by Arkansas law and cannot be performed by the appointed City Attorney or an attorney hired by the City of Tontitown to provide legal representation.

(2) There shall be no salary or benefits for the position of elected City Attorney.
(Ord. 2005-1-199, passed 1-4-05; Am. Ord. 2020-05-886, passed 5-5-20)

§ 30.51 MAYOR.

The Mayor shall:

(A) By virtue of the position of Mayor, be the Ex-Officio President of the City Council;

(B) Have the responsibility to keep city government running properly;

(C) Have the duty to enforce ordinances of the city;

(D) Preside over the meeting of the Council;

(E) Vote when the Mayor's vote is needed to pass an ordinance, bylaw, resolution or motion;

(F) Have a vote to establish a quorum;

(G) Sign all ordinances, resolutions and City Council meetings;

(A.C. § 14-55-205)

(H) If permitted by ordinance or Council rules, introduce ordinances, resolutions and recommend policy;

(I) Veto any ordinance, resolution or motion adopted or made by the Council, or any part thereof;

(J) Be required to prepare and submit a budget to the city for approval, on or before the first day of December each year;

(K) Determine the day-to-day activities and supervise the city department heads, appointive officers, and those city employees not working under the direct supervision of a department head. Any city employee who works under the direct supervision of a department head of the city shall be supervised and directed by the department head who supervises the employee;

(L) Have the power to appoint and remove all department heads and those city employees not working under the direct supervision of a department head, subject to the City Council's vote to override. Any city employee who works under the direct supervision of a department head of the city shall be appointed and removed by the department head who supervises the employee, subject to the City Council's vote to override.

(M) Review all invoices and accounts payable incurred by the city, prior to approving the payment of same.

(A.C. §§ 14-44-107) (Ord. 2005-3-209, passed 3-15-05; Am. Ord. 2008-1-303, passed 1-8-08; Am. Ord. 2009-04-336, passed 4-7-09)

§ 30.52 CITY CLERK-TREASURER.

(A) (1) The offices of City Clerk and City Treasurer for the City of Tontitown, Arkansas are hereby established as a combined position, herein after known as the City Clerk-Treasurer.

(2) The duties of the City Clerk-Treasurer shall be those as set forth by the laws of the State of Arkansas and such other duties as provided by or which may be prescribed by ordinance.

(B) The City Clerk-Treasurer shall:

(1) Have custody, but not exclusive custody or control, of all the laws, ordinances, resolutions and official documents of the city and its actions. Only the City Clerk-Treasurer will have the ability to modify or adjust the data in the financial documents or records of the city;

(A.C. § 14-44-109)

(2) Keep a regular and correct written journal of the proceedings of the City Council; prepare and distribute copies of the Council meeting agenda to the Council, Mayor and press/media; train the designated deputy, as appointed by the City Council, who is empowered to act in the absence or incapacity of the Clerk-Treasurer (unless the Council shall have declared a vacancy in the office of the Recorder) (no Deputy Treasurer may be designated);

(A.C. § 14-44-109)

(3) Submit a written monthly, full report and detailed statements of the financial condition of the city, showing receipts, disbursements and the balance on hand, together with all liabilities of the city; this report shall be submitted to the City Council in open session;

(A.C. § 14-59-115)

(4) Be authorized and empowered to perform the functions of a magistrate during the disability or absence of the Mayor, as outlined and set forth in A.C. § 14-44-106;

(5) Maintain the official seal of the city;
(A.C. § 14-44-109)

(6) Ensure that all checks and drafts, on the city municipal bank account (in addition to others prescribed by ordinance or resolution of the Council), including but not limited to the general and street accounts, are countersigned by two duly authorized personnel;

(7) The Clerk-Treasurer shall establish an electronic payment method that is approved by the current auditor and provides for internal accounting controls and documentation for audit and accounting purposes;

(8) Sign all bonds and debentures of the city that have been to be approved by City Council;
(A.C. § 14-164-212)

(9) Receive, file and retain (as required by law) the statements of financial interests from elected (appointed) city officials, including the Mayor, Councilpersons, City Clerk-Treasurer and City Attorney;
(A.C. § 21-8-703)

(10) Such other different or additional duties as may be enacted by an amendment to the Constitution or legislative acts;

(11) Record all ordinances or documents as required by the Washington County Courthouse, Fayetteville, Arkansas;
(A.C. § 14-44-109)

(12) Invest monetary reserves of the city at the direction of the City Council;

(13) Prepare and arrange for publication of all official reports;

(14) Comply with any federal or state law, but not limited to any F.O.I. request, made upon the city, which may pertain to the records in the custody of the City Recorder/Treasurer. The City Clerk-Treasurer shall not designate a deputy for this task unless such deputy has been approved by the City Council; and

(15) Such duties as from time to time be directed by the Council in ordinances and resolutions.
(A.C. § 14-44-109)

(16) The duties set forth in divisions (2) through (14) above shall not be delegated.
(A.C. § 14-44-109)

(C) As Clerk-Treasurer of the city, the elected official shall receive an annual salary as set by the city, and such salary may be hereafter amended, as allowed by law, by ordinance or budget adoption.

(D) The Clerk-Treasurer shall have the authority to make reasonable provisions for the safekeeping of city records after normal business hours, on weekends, and other times when City Hall is not open to the public. This authority shall include, but is not limited to, providing security of the records and Clerk-Treasurer's office where records are kept and controlling access to the Clerk-Treasurer's office where records are kept. This section does not authorize the Clerk-Treasurer to spend city funds, and the expenditure of city funds to carry out the safekeeping of city records must be approved by the City Council and/or the

Mayor as otherwise provided by city ordinances and Arkansas law. The City Clerk shall be available as needed and appointments may be scheduled by email or calling the City Clerk directly.

(Ord. 2005-3-210, passed 3-15-05; Am. Ord. 2005-3-211, passed 3-15-05; Am. Ord. 2007-05-289, passed 5-1-07; Am. Ord. 2008-08-320, passed 8-5-08; Am. Ord. 2009-02-330, passed 2-3-09; Am. Ord. 2009-04-336, passed 4-7-09; Am. Ord. 2009-04-337, passed 4-7-09; Am. Ord. 2010-01-350, passed 1-5-10; Am. Ord. 2011-01-370, passed 1-5-11; Am. Ord. 2013-02-410, passed 2-5-13; Am. Ord. 2013-04-416, passed 4-2-13; Am. Ord. 2015-08-539, passed 8-11-15; Am. Ord. 2020-05-885, passed 5-5-20)

Statutory reference:

For similar state provisions, see A.C. § 14-44-109

§ 30.53 BUILDING OFFICIAL.

(A) A position is created of Building Official for the city.

(B) The salary or hourly wage for the Building Official will be set by the Mayor and approved by the City Council.

(C) The Building Official shall perform the duties and carry out the responsibilities as defined by the Arkansas Fire Prevention Code or as set forth by the City Council as long as the requests by the Council do not conflict with the Arkansas Fire Prevention Code.

(Ord. 2005-4-216, passed 4-5-05; Am. Ord. 2011-02-371, passed 2-8-11; Am. Ord. 2014-06-474, passed 6-3-14)

Cross-reference:

Arkansas Fire Prevention Code adopted by reference, see § 93.01

§ 30.54 ADMINISTRATIVE ASSISTANT.

(A) A position of Administrative Assistant exists within the city.

(B) The salary for the Administrative Assistant is set as defined in the annual budget as approved by the City Council, and will be subject to the same periodic raises as all other city employees.

(C) The Administrative Assistant will be responsible for a variety of administrative and clerical duties necessary to run city offices efficiently. These duties include:

(1) Assisting the appropriate city official(s) in planning and scheduling meetings and appointments; organizing and maintaining paper and electronic files; managing projects; conducting research; and disseminating information by using the telephone, mail services, web sites, and e-mail for the Mayor and city officials;

(2) Handling travel and schedule arrangements and, when requested, aiding the appropriate city official(s) in procuring a variety of office equipment, such as fax machines, photocopiers, scanners, and videoconferencing and telephone systems for the city;

(3) Creating spreadsheets; composing correspondence; managing databases; and creating presentations, reports and documents using desktop publishing software and digital graphics;

(4) The Administrative Assistant also may assist the appropriate city official(s) with managing areas such as stockrooms or corporate libraries, and retrieving data from various sources;

(5) The duties and responsibilities of the Administrative Assistant may be modified by ordinance from time to time, as deemed necessary by the City Council and the Mayor;

(6) The Administrative Assistant shall be supervised by the Mayor, who shall direct, supervise and control the Administrative Assistant's day-to-day activities and duties.

(Ord. 2008-07-315, passed 7-3-08; Am. Ord. 2015-01-507, passed 1-13-15)