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Washington County, AR
Kyle Sylvester Circuit Clerk
File **2023-00019281**

ORDINANCE NO. 2023-07-1062

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 10.99 GENERAL PENALTY OF THE TONTITOWN MUNICIPAL CODE; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Tontitown has adopted regulations to establish land usage fees within the City which are codified in Section 10.99 General Penalty of the Tontitown Municipal Code; and

WHEREAS, it has become apparent to the City Council of Tontitown that a need exists to amend Section 10.99 General Penalty in order to provide updated regulations pertaining to general penalties for ordinance or code violations in the City of Tontitown; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that it is in the best interest and benefit to the Tontitown community to amend Section 10.99 General Penalty of the Tontitown Municipal Code, as set forth in the attached Exhibit "A".

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

Section 1. That Section 10.99 General Penalty of the Tontitown Municipal Code is hereby amended, as set forth in the attached Exhibit "A".

Section 2. The rest and remainder of the Tontitown Municipal Code not specifically amended herein remains 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 Section 10.99 General Penalty of the Tontitown Municipal Code should be immediately amended in its entirety in order to clarify and amend the regulations pertaining to general penalties of ordinances or code violations in 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 18 day of July 2023.

APPROVED:

Angela Russell
Angela Russell, Mayor

ATTEST:

Rhonda Ardemagni
Rhonda Ardemagni, City Clerk-Treasurer
(SEAL)





§ 10.99 GENERAL PENALTY.

(A) *General penalty established.* If an ordinance or code does not specifically provide for the penalty for violating that ordinance or code, then this section along with the below-mentioned fines will encompass those violations. This section is not designated to supersede any ordinance or code in which penalties have already been established. Any conflict between the penalties stated below and any other ordinance or code violations will be resolved by deference to the more specific ordinance or code violation.

(B) *Maximum penalties permitted.*

(1) The city shall not inflict any fine or penalty, by ordinance or otherwise, to a greater sum than \$1,000 for any one specified offense or violation of a bylaw or ordinance, or double that sum for each repetition of such offense or violation.

(2) If a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the bylaw or ordinance, shall not exceed \$500 for each day that it may be unlawfully continued.

(3) If any bylaw or ordinance provides for any greater fine, penalty, or forfeiture than is provided in this section, it shall and may be lawful, in any suit or prosecution for the recovery thereof, to reduce it to such amount as shall be deemed reasonable and proper and to permit a recovery or render a judgment for such amount as authorized. (Ark. Code Ann. § 14-55-504)

(C) *Imprisonment to enforce fine.*

(1) When a fine has been imposed for the violation of any of the ordinances of the city and is not paid, the party convicted shall, by order of the Washington County District Judge who has jurisdiction to hear the matter, including the Springdale District Court or other proper authority or on process issued for the purpose, be committed until the fine and costs of prosecution shall be paid, or the party discharged by due course of law.

(2) Any person convicted of a repeated and willful violation of any ordinance, who shall refuse or neglect to pay the fine imposed and the cost of prosecution, by like order or process, shall be imprisoned and kept in confinement for any term not exceeding 30 days.

(3) All persons imprisoned in the County Jail shall be under the charge of the County Sheriff. The County Sheriff shall receive and discharge the person in such manner as shall be prescribed by the ordinances of the city and state statutes by due course of law.

(D) *Working out of fines.* Fines imposed for violation of ordinances may be discharged by the offender voluntarily working out the fine upon the streets or facilities of the city. The County Sheriff shall give credit to such offenders at rates no less than those in Ark.Code Ann. § 16-90-108.

(E) *Suit for recovery of fines and the like.*

(1) Fines, penalties, and forfeitures, in all cases and in addition to any other mode provided, may be recovered by suit or action before any court of competent jurisdiction, in the name of this city and for its use.

(2) In all cases of violation of any of its ordinances, this city, in addition to any other provided by law, shall have the right to recover in a civil action the amount of the lowest penalty or fines provided in the ordinance for each violation or, where the offense is in its nature continuous in respect to time, for each day's violation thereof, and also the

amount of any license which the person guilty of the violations was required by any such ordinance to take out.

(F) *Disposition of fines.* All fines and penalties imposed by the city, sheriff's office, or district court regarding the above-mentioned violations in this city shall be paid into the City Treasury.

(G) *Additional fine to defray incarceration costs.* An additional fine, not to exceed \$10 for each conviction, is levied for each plea of guilty or nolo contendere or each bond forfeiture in all non-traffic misdemeanors or violations of city ordinance or state law, or traffic offenses which are misdemeanors or violations under state law or city ordinances which are committed within the corporate limits of the City of Tontitown.

(1) The Court Clerk of the Washington County District Court, Elm Springs Department, or such Court Clerk of a District Court who serves the City of Tontitown in the future until this division is no longer in effect, shall collect the fine from each defendant as set forth in division (G) above.

(2) All funds collected pursuant to this additional fine shall be paid to the City Treasury and deposited into a fund to be used exclusively to help pay for the costs of incarcerating municipal prisoners as set forth in Ark. Code Ann. § 16-17-129.

(3) This additional fine shall be reviewed from time to time by the appropriate city officials, and as needed may be adjusted by the City Council so as not to collect inadequate or surplus funds.

