

**ORDINANCE NO. 2023-\_\_\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**AN ORDINANCE TO ENACT WATER AND WASTEWATER IMPACT FEES; ADOPTING RULES AND REGULATIONS RELATED THERETO; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Tontitown operates a water and wastewater system for the citizens of the City of Tontitown and for certain properties outside of the municipal limits of the City of Tontitown;

**WHEREAS**, the City of Tontitown is experiencing substantial growth in population, business and industry which has put a strain on existing water and wastewater services and facilities and has created a need for the expansion of such water and wastewater services and facilities;

**WHEREAS**, Ark. Code. Ann. § 14-56-103 allows a city to enact development impact fees upon or against a development in order to generate revenue for funding for recouping expenditures of the municipality that are reasonably attributable to the use and occupancy of the development;

**WHEREAS**, the City Council of the City of Tontitown finds that the cost of increasing the capacity of existing wastewater distribution systems within the City of Tontitown to accommodate the anticipated growth in the City of Tontitown should be borne by those developments that make such increases necessary; and

**WHEREAS**, the City Council of the City of Tontitown finds that such development impact fees are necessary for the health, safety and welfare of the citizens of the City of Tontitown as well as for other reasons set forth in this Ordinance.

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

**Section 1. Legislative Findings.**

The City Council of Tontitown, Arkansas, finds, determines and declares that:

a) System expansion required. The protection of the health, safety, and general welfare of the citizens of the City of Tontitown requires that the City's water and wastewater facilities be expanded and improved to accommodate growth and development with the city.

b) System demand. New residential and nonresidential development imposes increased and excessive demands upon the existing water and wastewater facilities and often overburdens the existing system facilities. Provided, further, new development is

expected to continue, and will place ever-increasing demands on the city to provide these facilities to serve new development.

c) Revenues. Revenues generated from new development often does not generate sufficient funds to provide the necessary water and wastewater facilities to accommodate new development; therefore, the creation of an equitable local water and wastewater impact fee system would enable the city to impose a proportionate share of the costs of the needed improvements to capital facilities to accommodate new development.

d) Study conducted. In order to implement equitable local impact fees, the city caused to be a prepared Water and Wastewater Impact Fee Study with a Capital Plan contained therein, hereinafter termed “Technical Report.” Said Technical Report is incorporated herein by reference and sets forth reasonable methodologies and analysis for determining the impacts of various types of development on the City’s system capital facilities, and for determining the costs of acquiring the improvements necessary to meet the demands for such services created by new development.

e) Standards established. The City hereby establishes as City standards the assumptions and level of service standards in the study as part of its current plans for future expansions to the City’s system capital facilities.

f) Impact fee use limited. The impact fees described in this ordinance are based on the study, and do not exceed the costs of improvements to serve new development that will pay the impact fees. This is intended to be a local improvement impact fee as to water and wastewater.

g) Benefit. Those capital water and wastewater facilities/improvements listed in the Technical Report will benefit all new development that depends on City Services, and it is therefore appropriate to treat the entire system as a single service area for purposes of calculating, collecting, and spending the local government impact fees as to water and wastewater.

h) Impact fee relationship. There is both a rational nexus and rough proportionality between the development impacts created by each type of development covered by this ordinance and the impact fees that such development will be required to pay for water and wastewater.

i) Impact fee purpose. This ordinance creates a system by which water and wastewater impact fees paid by new development will be used to finance, defray or reimburse all or a portion of the costs incurred by the City to construct improvements for system’s capital water and wastewater facilities in ways that benefit the development that paid each fee within a reasonable period of time after the fee is paid.

**Section 2. Intent.**

a) Capital improvement plan. This ordinance is adopted to assist in the implementation of the Capital Improvement Plan for water and wastewater as set forth in the Technical Report, which plan was reviewed and approved by the City Council and used in the independent fee calculation study. To that end, the intent of this ordinance is to ensure that new development bears a proportionate share of the costs of improvements to capital wastewater facilities; to ensure that such proportionate share does not exceed the costs of improvements for capital wastewater facilities required to accommodate new development; and to ensure that funds collected from new development are actually used for improvements for capital wastewater facilities that benefit such new development.

b) Impact Fee purpose. It is further intent of this ordinance that new development pays for its fair share of the costs of local improvements for capital water and wastewater facilities required to accommodate new development through imposition of impact fees that will be used to finance, defray, or reimburse all or a portion of the costs incurred by the City to construct improvements to the City capital water and wastewater facilities that serve or benefit such new development. It is not the intent of this ordinance to collect any money from any new development in excess of the actual amount necessary to offset new demands for capital water and wastewater facilities.

c) Funds restricted. It is not the intent of this ordinance that any monies collected from any local impact fee deposited in the wastewater impact fee trust ever be commingled with monies from any other city trust funds or account, or ever be used for a type of facility or equipment different from that for which the fees are paid, or are ever used to replace or rehabilitate existing improvements.

### **Section 3. Water and Waste Water Impact Fee Imposed.**

Water and Wastewater Impact Fees are hereby adopted with such regulations as set forth in the attached Exhibit "A" and which shall be codified as a new § 155.03 Water and Wastewater Impact Fees section in the Tontitown Municipal Code.

### **Section 4. Appeals.**

Any determination made by an official of the City charged with the administration of any part of this ordinance may be appealed to the City Council by filing with the Clerk within fifteen (15) days of the date of the determination being appealed: (1) a written notice of appeal on a form which may be provided by the City, (2) a written explanation of why the appellant feels that a determination was in error, and (3) an appeal fee established by the City, if any. The City Council shall promptly fix a time and place for hearing the appeal, and the City Clerk or designee shall mail notice of the hearing to the appellant at the address given in the notice of appeal by first-class mail postage prepaid. The hearing shall be conducted at the time and place stated in such notice given by the City Council. The determination of the City Council shall be the final administrative determination of the city.

### **Section 5. Penalty.**

The penalty for violation of this ordinance shall, upon conviction in the Tontitown District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Tontitown Municipal Code as may now or hereafter be enacted by the City Council.

**Section 6. Declaration of Emergency.** It is hereby found and determined that there is an immediate need to institute development impact fees for the City of Tontitown water and wastewater system and facilities in accordance with Ark. Code Ann. § 14-56-103 as amended, in order to address and accommodate the substantial residential, commercial and industrial growth experienced by the City of Tontitown and in order to offset costs to the city's water and wastewater system which is attributable to the new development. Therefore, an emergency is declared to exist, and this Ordinance being immediately necessary for the above-stated purposes, shall become effective immediately from and after the date of its passage, to take effect as provided by the terms of this Ordinance.

**PASSED AND APPROVED** this \_\_\_ day of \_\_\_\_\_, 2023.

APPROVED:

\_\_\_\_\_  
Angela Russell, Mayor

ATTEST:

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