

ORDINANCE NO. 2025-____

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE TO ESTABLISH A POLICY FOR THE RETENTION OF ELECTRONIC MAIL (EMAIL) RECORDS; TO PRESCRIBE A MINIMUM RETENTION PERIOD OF FIVE (5) YEARS; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, the City of Tontitown, Arkansas (hereinafter “the City”), recognizes the importance of maintaining accurate and accessible records of its operations, including those communicated via electronic mail; and

WHEREAS, electronic mail constitutes a significant form of official communication and may contain information vital to the public interest, legal compliance, and historical preservation; and

WHEREAS, it is necessary to establish clear guidelines for the retention and management of email records to ensure compliance with applicable state and federal laws, promote transparency, and support efficient government operations; and

WHEREAS, a five (5) year retention period is deemed appropriate to balance the need for comprehensive record-keeping with practical considerations of storage and accessibility; and

WHEREAS, the immediate implementation of a clear email retention policy is necessary to ensure the proper management of public records, comply with potential legal obligations, and protect the City’s interests, thereby preserving the public peace, health, and safety; and

WHEREAS, for the reasons set forth above, the City Council finds it to be in the best interest and benefit of the community to implement an email retention policy, as set forth herein, which prescribes a minimum retention period of five (5) years for electronic mail (email) records.

NOW, THEREFORE, BE IT ENACTED, by the City Council of the City of Tontitown, Arkansas:

Section 1. This Ordinance shall be known as the “City of Tontitown Email Retention Ordinance.”

Section 2. Definitions. For the purposes of this Ordinance, the following definitions shall apply:

- “Electronic Mail” or “Email”: Any electronic message, including text, attachments, and embedded information, transmitted or received by City employees and officials using City-owned or City-provided email accounts or systems, or for City business conducted on personal devices or accounts.

- “City Records”: Any document, paper, electronic mail, or other material, regardless of physical form or characteristics, made or received by the City of Tontitown in connection with the transaction of public business and preserved or appropriate for preservation by the City or its successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the City or because of the informational value of data in them.
- “Retention Period”: The minimum length of time an email record must be preserved.

Section 3. Email as City Records. All email sent or received by the City employees, officials, or agents in the course of transacting public business are hereby declared to be City Records, subject to the provisions of this Ordinance and all applicable state and federal laws regarding public records.

Section 4. Minimum Retention Period. All electronic mail records, as defined herein, shall be retained by the City of Tontitown for a minimum of five (5) years from the date of creation or receipt, whichever is later.

Section 5. Exceptions to Retention Period. The five (5) year retention period established in Section 4 shall be a minimum. Nothing in this Ordinance shall be construed to:

- Prohibit the retention of email records for a longer period if required by specific state or federal laws, grants, contracts, or other legal obligations.
- Prevent the City from retaining certain emails permanently if they are deemed to have historical, archival, or long-term administrative value, as determined by the City Clerk or designated records official.
- Override any legal hold or litigation hold directive that requires the preservation of specific records beyond the standard retention period. In such cases, the email records subject to the legal hold shall be retained until the hold is officially lifted.

Section 6. Responsibilities.

(a) City Departments and Employees: Each City department, and individual employees thereof, shall be responsible for ensuring that emails created or received in the course of City business are properly managed and retained in accordance with this Ordinance.

(b) City Clerk/Records Custodian: The City Clerk, or designated records custodian, shall be responsible for:

- (i) Developing and implementing procedures for systematic capture, storage, and retrieval of email records.

- (ii) Providing guidance and training to City employees on email retention policies and procedures.
- (iii) Overseeing the proper disposition of email records after their retention period has expired, in accordance with applicable laws and established City policies.
- (iv) Ensuring the integrity, authenticity, and accessibility of retained email records.

(c) Information Technology (IT): The City shall be responsible for:

- (i) Providing and maintaining the necessary technological infrastructure to support email retention, including adequate storage capacity, backup systems, and security measures.
- (ii) Assisting the City Clerk/Records Custodian in the implementation of technical solutions for email archiving and management.

Section 7. Disposition of Emails. Upon expiration of the five (5) year retention period, and provided no exceptions as outlined in Section 5 apply, email records may be securely disposed of in a manner that ensures the information is irretrievable, unless otherwise directed by the City Clerk/Records Custodian or required by law.

Section 8. Compliance. All City employees and officials are required to comply with the provisions of this Ordinance. Failure to comply may result in disciplinary action.

Section 9. Severability. 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 10. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Section 11. Declaration of Emergency. It is hereby found and determined that there is an immediate need to implement a clear email retention policy in order to ensure proper management of public records, comply with potential legal obligations, protect the City's interests, and to promote the health, safety, and general welfare of the community. 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 ____ of August 2025.

APPROVED:

Angela Russell, Mayor

ATTEST:

Rhonda Ardemagni, City Clerk-Treasurer
(SEAL)