

ORDINANCE NO. 2026-

AN ORDINANCE ADOPTING A COMPREHENSIVE ANIMAL CONTROL CHAPTER FOR THE CITY OF TONTITOWN, ARKANSAS; ESTABLISHING THE COMBINED CODE ENFORCEMENT / ANIMAL CONTROL OFFICER AS A CIVILIAN POSITION ASSIGNED TO THE TONTITOWN POLICE DEPARTMENT; AMENDING CHAPTERS 30, 110, 153 AND 154 TO CLARIFY THE OFFICER'S REPORTING RELATIONSHIP AND ENFORCEMENT AUTHORITY WHILE PRESERVING THE TECHNICAL AUTHORITY OF THE BUILDING OFFICIAL AND ZONING ADMINISTRATIVE OFFICIAL; REORGANIZING EXISTING ANIMAL-RELATED PROVISIONS; REPEALING AND RECODIFYING §§ 130.04 AND 130.06; PRESERVING APPLICABLE ZONING REGULATIONS; PROVIDING FOR ENFORCEMENT, IMPOUNDMENT, DANGEROUS ANIMALS, RABIES CONTROL AND OTHER ANIMAL-CONTROL MATTERS; DECLARING SEVERABILITY; REPEALING CONFLICTING PROVISIONS; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Tontitown, Arkansas has determined that the protection of the health, safety and welfare of the citizens of Tontitown requires clear and comprehensive regulations concerning animals within the corporate limits of the City;

WHEREAS, the City of Tontitown anticipates establishing during calendar year 2027 a combined Code Enforcement & Animal Control Officer position assigned to the Tontitown Police Department and further desires that appropriate ordinances and enforcement procedures be in place before the animal-control program becomes operational;

WHEREAS, assigning placement of the combined position within to the Tontitown Police Department will provide day-to-day supervision through the Chief of Police, subject to the Mayor's authority under Arkansas law, and facilitate coordination with is intended to provide a clear chain of command, ready access to sworn officers when their law enforcement assistance is required when state law requires a law enforcement officer, coordinated citation and evidence procedures, and improved officer safety;

WHEREAS, Arkansas law authorizes municipal corporations to regulate dogs running at large and to provide for their impoundment and lawful disposition pursuant to A.C.A. § 14-54-1102 and authorizes municipalities to restrain and impound livestock running at large pursuant to A.C.A. § 14-54-1101;

WHEREAS, the Arkansas Rabies Control Act, A.C.A. § 20-19-301 et seq., and applicable State Board of Health regulations establish vaccination, confinement and public-health requirements applicable to animals within the City;

WHEREAS, Arkansas law criminal statutes concerning cruelty to animals, including A.C.A. § 5-62-101 et seq. and A.C.A. § 5-62-128, grants provide additional protections and certain powers specifically assigned to law-enforcement officers, and this Ordinance does not grant those powers to a civilian employee which powers shall remain with sworn law enforcement personnel unless otherwise provided by law;

WHEREAS, the City's existing animal regulations are presently located in multiple portions of the Tontitown Municipal Code, including § 130.04 concerning sale of animals, § 130.06

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concerning animal abandonment and dumping, and §§ 153.170 and 153.171 concerning farm animals and hobby chickens;

WHEREAS, the Tontitown City Council finds that the public interest will be served by consolidating general animal-control regulations into a comprehensive Animal Control Chapter while retaining land-use and zoning provisions within Chapter 153;

WHEREAS, the Tontitown Property Maintenance Code presently uses the term “Code Official” to mean the chief Building Official or his or her designee, which terminology may create confusion after establishment of the combined Code Enforcement & / Animal Control Officer; and

WHEREAS, the Tontitown City Council does not intend the assignment of the combination position organizational transfer of code enforcement to the Police Department to transfer building-permit, zoning-administration, structural-safety, condemnation, demolition, or other technical authority away from the officials presently charged with those responsibilities;

WHEREAS, the Tontitown City Council instead intends the combined Code Enforcement & / Animal Control Officer to provide investigation and documentation apparent violations, serve authorized notices, citations and other provide authorized enforcement assistance while remaining within the Police Department chain of command and coordinating with the Building Official, Planning Department and other subject-matter officials as necessary;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS:

SECTION 1. ADOPTION OF COMPREHENSIVE ANIMAL CONTROL CHAPTER.

A new Chapter 94, Animal Control, of the Tontitown Municipal Code, is hereby adopted in the exact form as the tentatively identified as Chapter 94, Animal Control, subject to final numbering by the City's codifier, is hereby adopted. The complete text entitled “Chapter 94: Animal Control,” attached hereto as Exhibit A, is incorporated into this Ordinance as though fully set forth herein. The City Clerk and codifier may correct formatting, capitalization, typographical errors, section are authorized to make non-substantive numbering, formatting, capitalization and cross-reference corrections necessary to incorporate Exhibit A into the Code, provided that no substantive provision adopted by the City Council is altered.

SECTION 2. COMBINED CODE ENFORCEMENT / ANIMAL CONTROL OFFICER; POLICE DEPARTMENT ASSIGNMENT.

The City's combined civilian Code Enforcement & / Animal Control Officer position is established and shall be organizationally assigned to the Tontitown Police Department, as provided in Tontitown Municipal Code § 30.54, enacted by Section 7 of this Ordinance. The -and shall report to the Chief of Police shall provide day-to-day supervision, subject to the Mayor's authority as chief executive officer of the City and the Mayor's supervisory duties under Arkansas law, or the Chief's designee. The Chief of Police shall be responsible for the employee's supervisory chain of command, assignment of animal control duties, officer safety procedures, evidence and citation procedures, and coordination with sworn personnel when law enforcement authority is required. The combined officer may coordinate with other City

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departments or outside agencies concerning matters within their technical jurisdiction, but such coordination shall not alter the employee's Police Department reporting relationship.

SECTION 3. CIVILIAN AND LAW-ENFORCEMENT AUTHORITY.

The duties and limitations applicable to the civilian position are stated in Tontitown Municipal Code §30.54. Assignment to the Tontitown Police Department does not, by itself, grant law enforcement certification or any ~~Unless the person serving in the combined position is independently certified and acting as a law enforcement officer, nothing in this Ordinance shall confer arrest authority, authority to execute a search warrant, authority to exercise powers expressly reserved by Arkansas law to a law-enforcement officer, or any other police power not otherwise granted by law. Whenever state law requires action by a law enforcement officer, the combined officer shall promptly refer or elevate the matter through the Tontitown Police Department for action by an authorized sworn officer.~~

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SECTION 4. REPEAL AND RECODIFICATION OF § 130.04 - SALE OF ANIMALS.

Existing § 130.04 of the Tontitown Municipal Code, presently entitled "Sale of Animals," is repealed as a separate section of Chapter 130. Its substance is recodified and updated in the Animal Control Chapter. The repeal shall not be construed as creating any period during which conduct prohibited by former § 130.04 is lawful.

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SECTION 5. REPEAL AND RECODIFICATION OF § 130.06 - ANIMAL ABANDONMENT AND DUMPING.

Existing § 130.06, adopted by Ordinance No. 2026-04-1276, is repealed as a separate section of Chapter 130 and its substance and purpose are preserved and integrated into the Animal Control Chapter. Nothing in this Ordinance terminates any investigation, citation, prosecution, liability or proceeding arising from conduct occurring before the effective date.

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SECTION 6. FARM ANIMALS AND HOBBY CHICKENS; ZONING PROVISIONS PRESERVED.

Sections 153.170 and 153.171 and all zoning tables, definitions and district provisions relating to farm animals, agriculture, animal uses and hobby chickens shall remain within Chapter 153 and in full force and effect. Those provisions regulate land use and zoning in addition to animal conduct and therefore are not physically relocated. The Animal Control Chapter shall cross-reference those provisions.

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SECTION 7. CREATION AND ORGANIZATIONAL PLACEMENT OF COMBINED CODE ENFORCEMENT / ANIMAL CONTROL OFFICER.

Chapter 30 of the Tontitown Municipal Code is amended by adding a new section, tentatively designated § 30.54 and subject to final numbering by the City's codifier, to read substantially as follows:

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§ 30.54 CODE ENFORCEMENT & ANIMAL CONTROL OFFICER.

(A) There is hereby established the civilian position of Code Enforcement & Animal Control Officer for the City of Tontitown.

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(B) The position shall be assigned to the Tontitown Police Department, and shall report to the

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Chief of Police or the Chief's designee shall provide day-to-day supervision, subject to the Mayor's authority and supervisory duties under Arkansas law.

(C) The Officer may ~~shall~~ investigate apparent violations of and enforce those provisions of the Tontitown Municipal Code authorized for enforcement assigned by ordinance, document conditions, service authorized notices, and perform other civilian code-enforcement and animal control duties within the authority granted by ordinance and law. ~~lawful policy, or job description to code enforcement or animal control, including authority to issue warnings, notices and citations to the extent authorized by law.~~ A City policy or job description may allocate duties but shall not create an offense or expand legal enforcement authority. The Officer may issue a court citation only when authorized by law and under a procedure accepted by a court of proper jurisdiction.

(D) In performing duties involving zoning, building, property maintenance, fire, public works, business licensing or other technical subject matter, the Officer shall coordinate with the department or official having substantive jurisdiction. Such coordination shall not alter the Officer's administrative reporting relationship through the Police Department.

(E) Nothing in this section transfers to the Officer any technical, permitting, interpretive, condemnation, demolition or other authority expressly assigned by law or ordinance to the Building Official, zoning administrative official, Planning Commission, Board of Zoning Adjustment, City Engineer, Fire Marshal or other designated official.

(F) Unless independently certified and acting as a law-enforcement officer, the Officer shall not exercise arrest authority, execute search warrants, or exercise powers reserved by law to a certified law-enforcement officer. When such authority is required, the matter shall proceed through the Police Department chain of command."

SECTION 8. AMENDMENT OF CHAPTER 154.006 -- DEFINITION ELIMINATION OF "CODE ENFORCEMENT & ANIMAL CONTROL OFFICER/OFFICIAL"; CONSISTENT USE OF "BUILDING OFFICIAL."

To eliminate ambiguity between the Building Official and the combined Code Enforcement/Animal Control Officer, Chapter 154 of the Tontitown Municipal Code is amended so that every reference to "Code Official" or "Code Officials" shall be replaced with "Building Official" or "Building Officials," as the context requires.

Section 154.006 of the Tontitown Municipal Code is further amended by deleting the existing definition of "CODE OFFICIAL" and inserting the following definitions:

"BUILDING OFFICIAL. The Building Official of the City of Tontitown established under § 30.53, or his or her lawful designee. The Building Official is the technical official responsible for those building, structural-safety, property-maintenance, interpretation, approval, condemnation, demolition and related duties assigned by ordinance or applicable law."

"CODE ENFORCEMENT / ANIMAL CONTROL OFFICER. The civilian employee established under § 30.54, assigned to the Tontitown Police Department and authorized to perform code-enforcement and animal-control duties within the scope provided by ordinance, lawful policy and job description. The position is separate from the Building Official and does

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not acquire technical building, structural-safety, permitting, interpretation, condemnation or demolition authority merely by virtue of code-enforcement duties.”

The City's codifier is directed to make corresponding terminology changes throughout Chapter 154, including section titles, definitions, notices, orders, appeals, inspection provisions and internal cross-references, so that “Building Official” is used consistently for the technical official formerly identified as the “Code Official.”

SECTION 9. AMENDMENT OF § 154.015 - DUTIES AND POWERS OF THE BUILDING OFFICIAL.

Section 154.015 is amended by adding a new subsection concerning enforcement assistance, substantially as follows:

“(I) Code-enforcement assistance. The Code Enforcement ~~& Animal Control~~ Officer may investigate apparent violations of this chapter; document conditions; conduct observations and inspections from places where the Officer has a lawful right to be; serve notices prepared or approved under this chapter; issue warnings or citations when authorized; conduct follow-up inspections; and otherwise assist in enforcement. The Code Enforcement ~~& Animal Control~~ Officer shall not, solely by virtue of that position, exercise technical authority assigned to the Building Official to interpret building or structural standards, approve alternative materials or methods, make structural-safety determinations, condemn structures, or order demolition. When a violation depends upon such a technical determination, the Code Enforcement ~~& Animal Control~~ Officer shall proceed upon the determination of the Building Official or other official having jurisdiction. Coordination under this subsection does not alter the Officer's Police Department chain of command.”

SECTION 10. AMENDMENT OF § 154.017 - VIOLATIONS.

~~Section 154.017 is amended to clarify enforcement responsibility while preserving the Building Official's technical authority. Subsection (B) shall be construed and, if necessary, codified to provide that a notice of violation or order may be served by the Building Official or by the Code Enforcement / Animal Control Officer when acting within assigned enforcement authority. Where the alleged violation requires a technical determination reserved to the Building Official, the notice or order shall be based upon or approved by the Building Official.~~

~~Subsection (C) shall be construed and, if necessary, codified to permit the Code Enforcement / Animal Control Officer to initiate citations or other ordinary enforcement proceedings within the Officer's lawful authority, while proceedings seeking equitable relief, condemnation, demolition, liens, or other remedies reserved to another official or requiring legal action shall proceed through the Building Official, Mayor, City Attorney, City Council, or other authority as provided by law.~~

Subsections (B) and (C) of § 154.017 of the Tontitown Municipal Code are hereby repealed and replaced with the following:

(B) Notice of violation. The Code Official shall determine whether to issue a notice of violation or order under this chapter. The Code Official, or the Code Enforcement &

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Animal Control Officer acting at the direction of the Code Official, may serve a notice of violation or order issued or approved by the Code Official. The notice or order shall comply with § 154.018. Service by the Code Enforcement & Animal Control Officer does not transfer to that Officer the Code Official's authority to interpret this chapter or make technical, structural-safety, condemnation, or demolition determinations.

(C) Prosecution and other enforcement. A person who fails to comply with a notice of violation or order properly issued and served under § 154.018 may be prosecuted for a violation of this chapter within the limits provided by applicable law. The Code Enforcement & Animal Control Officer may document the violation and refer it for prosecution, and may issue a court citation only when authorized by law and pursuant to procedures accepted by the court having jurisdiction. Proceedings to restrain, correct, or abate a violation; require removal or termination of an unlawful occupancy; impose a lien; or obtain other relief affecting real property shall be initiated by the City through its authorized officials and legal counsel in accordance with applicable law. No charge against real property or lien arises under this subsection except as expressly authorized by Arkansas law and after compliance with all applicable statutory procedures.

SECTION 11. AMENDMENT OF § 153.280 - ZONING ADMINISTRATIVE OFFICER.

Section 153.280 is amended by adding the following clarification after the provision permitting assistance by other persons directed by the Mayor:

"The Code Enforcement / Animal Control Officer may provide investigation, documentation, notice, citation and other enforcement assistance concerning apparent zoning violations when authorized by ordinance or lawful policy. Such assistance does not make the Code Enforcement / Animal Control Officer the zoning administrative official; does not transfer authority to issue or deny permits, certificates of occupancy, zoning interpretations or other approvals; and does not alter the Officer's reporting relationship through the Tontitown Police Department. Technical and administrative determinations under this chapter remain with the building/zoning official or other body assigned jurisdiction by this chapter."

Section 153.280 of the Tontitown Municipal Code is amended by adding a new subsection (G) to read as follows:

(G) Code enforcement assistance. The Code Enforcement & Animal Control Officer may assist the administrative official in enforcing these regulations by receiving complaints, investigating and documenting apparent violations, observing conditions from places where the Officer is lawfully present, serving notices issued or approved by the administrative official, and documenting compliance or noncompliance. Before a notice is issued based on a zoning interpretation or other technical determination, the administrative official shall make and document that determination. The Code Enforcement & Animal Control Officer shall not, by virtue of this subsection, become the administrative official or acquire authority to issue or deny permits or certificates of occupancy, make binding zoning interpretations, decide appeals, or initiate an action for injunctive relief on behalf of the City. The Officer may refer a documented violation for prosecution and may issue a court citation only when authorized by law and under a

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procedure accepted by the court having jurisdiction. Assistance under this subsection does not alter the Officer's administrative reporting relationship through the Police Department.

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SECTION 12. AMENDMENT OF § 110.05 - BUSINESS LICENSE EMPLOYEE COUNT.

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Section 110.05(B)(2) is amended so that responsibility for determining the number of employees used to calculate a business license fee rests with the official or employee designated to administer business license applications, rather than being assigned solely by title to the Code Enforcement Officer. The subsection should be codified substantially as follows:

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“(2) The City official or employee designated to administer business license applications shall determine the number of employees upon which the fee is based and may require an affidavit stating the number of employees and other reasonable proof necessary to verify the calculation. The Code Enforcement / Animal Control Officer may investigate or verify information when requested as part of an enforcement matter, but responsibility for routine administration of the business license application shall remain with the department or official designated by the City.”

Section 110.05(B)(2) of the Tontitown Municipal Code is hereby repealed and replaced with the following:

“(2) The city official or employee designated by the Mayor to administer business-license applications shall determine the number of full-time employees upon which the license fee is based. That official or employee shall require each applicant to provide an affidavit stating the number of full-time employees used to calculate the fee and may require other reasonable documentation to verify that number. If the number cannot be determined through documentation, subsection (B)(3) applies. The Code Enforcement / Animal Control Officer may assist in verifying information at the request of the official or employee administering business-license applications.”

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SECTION 13. FEES.

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Before animal impound services commence, the City Council may shall establish any generally applicable mandatory by separate ordinance or resolution, to the extent permitted by law, reasonable fees for impoundment, boarding, transportation, vaccination, microchipping, quarantine, veterinary examination or treatment, dangerous-animal administration, livestock handling and other animal-control services charges by ordinance. Actual reasonable third-party care expenses may be recovered only where authorized by law or ordinance, with written documentation of the amount and a means to contest disputed charges. Nothing in this section independently establishes a fee or authorizes collection of a charge not otherwise established by law or ordinance.

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Until a fee schedule is adopted, the City may recover actual reasonable costs where recovery is otherwise authorized by law.

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SECTION 14. ADMINISTRATIVE PROCEDURES.

The Chief of Police, consistent with ordinances adopted by the City Council and other applicable City policies, may establish written Police Department procedures for animal-control intake, dispatch, officer safety, capture and transport, impoundment records, shelter and veterinary arrangements, evidence preservation, owner notification, bite reporting, dangerous-animal documentation, emergency veterinary expenditures, adoption or rescue transfer, and coordination with other agencies. No administrative policy may create an offense, establish a fine, expand statutory enforcement authority, or contradict an ordinance adopted by the City Council.

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SECTION 15. CONTRACTING FOR SHELTER AND VETERINARY SERVICES.

Nothing in this Ordinance requires the City to construct or operate a municipal animal shelter. The City may, in accordance with applicable purchasing and contracting requirements, contract with animal shelters, veterinarians, boarding facilities, rescue organizations or other qualified entities for services necessary to administer the Animal Control Chapter.

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SECTION 16. STATE LAW CONTROLS.

This Ordinance shall be construed consistently with applicable Arkansas law. When state law establishes a mandatory procedure, authority, limitation, notice requirement, quarantine requirement or other requirement applicable to a matter addressed herein, state law shall control.

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SECTION 17. CODIFIER'S AUTHORITY.

The City's codifier is authorized to assign the final chapter and section numbers; update internal cross-references; incorporate the amendments to Chapters 30, 110, 153 and 154; relocate statutory-reference annotations; correct manifest typographical errors; conform headings and formatting to the style of the Tontitown Municipal Code; and identify the legislative history of provisions transferred from §§ 130.04 and 130.06. No substantive amendment shall be made by the codifier without further action of the City Council.

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SECTION 18. PENDING ACTIONS AND PRIOR VIOLATIONS.

The repeal, relocation or recodification of an existing ordinance provision shall not extinguish liability incurred under the former provision, terminate a pending investigation or proceeding, prevent prosecution of an offense committed before the effective date, or affect rights or obligations that accrued before the effective date.

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SECTION 19. SEVERABILITY.

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or Exhibit A is declared unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions, and the City Council declares that it would have adopted the remaining portions independently of the invalid provision.

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SECTION 20. REPEALER.

All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict. The provisions of this Ordinance shall be construed, whenever reasonably possible, in harmony with other provisions of the Tontitown Municipal Code.

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SECTION 21. EFFECTIVE DATE.

This Ordinance shall take effect and be in force from and after its passage, approval and publication or posting as required by Arkansas law. Animal-control enforcement under the new chapter may become operational upon the City's employment or designation of the combined Code Enforcement & Animal Control Officer and establishment of necessary impoundment arrangements, but nothing herein delays the effective date of provisions otherwise enforceable by authorized City personnel.

PASSED AND APPROVED this ____ day of _____, 2026.

CITY OF TONTITOWN, ARKANSAS

By: _____ Mayor

ATTEST:

_____ Recorder-Treasurer/City Clerk

APPROVED AS TO FORM:

_____ City Attorney

SPONSORSHIP AND LEGISLATIVE HISTORY

Sponsor (Initiated By): _____

Motion to Introduce Made By: _____

Seconded By: _____

Adopted / Passed: _____

Vote: Ayes _____ Nays _____ Abstain _____ Absent _____

This requirement is in addition to, and does not supersede, any authentication, attestations, or signature requirements imposed by state law or other provisions of the Tontitown Municipal Code.

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