

ORDINANCE NO. 82

AN ORDINANCE OF THE CITY OF HARROGATE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF HARROGATE AND SETTING FORTH GENERAL PROVISIONS RELATIVE TO THE CODE OF ORDINANCES

WHEREAS, some of the ordinances of the City of Harrogate are obsolete, and

WHEREAS, some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS, the Board of Mayor and Aldermen of the City of Harrogate, Tennessee, has caused its ordinances of a general, continuing and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Harrogate Municipal Code."

WHEREAS, the City of Harrogate desires to adopt a code of ordinances and provide general provisions relative thereto, as well as establishing general rules of instructions, and uniform definitions.

NOW THEREFORE BE IT ENACTED BY THE BOARD OF MAYOR OF ALDERMEN OF THE CITY OF HARROGATE AS FOLLOWS:

SECTION 1: Ordinances codified. The Ordinances of the city of a general, continuing and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles 1 through 20, both inclusive, are ordained and adopted by the Board of Mayor and Aldermen shall constitute and be designated the "City of Harrogate Municipal Code" (the "Code") and may be so cited. The Code may also be cited as "Harrogate Municipal Code."

SECTION 2: Definitions and rules of construction.

In the construction of this code and of all ordinances, the following rules shall be observed, unless inconsistent with the manifest intent of the Board of Mayor and Aldermen or the context clearly requires otherwise:

Board of Mayor and Aldermen. "Board" or "Board of Mayor and Aldermen" or "BMA" shall mean the Board of Mayor and Aldermen of the City of Harrogate.

Bond. When a bond is required, an undertaking in writing shall be sufficient.

City. The words "the City" shall mean the City of Harrogate, in the County of Claiborne and State of Tennessee, except as otherwise provided.

Code. "Code" shall mean the Harrogate Municipal Code.

Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Saturday, Sunday or a legal holiday, that day shall also be excluded.

County. "County" shall mean Claiborne County, Tennessee.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving authority to a majority of such persons or officers.

Month. The word "month" shall mean a calendar month.

Municipal Code. The words "Municipal Code" shall mean the Harrogate Municipal Code.

Number. Words used in the singular include the plural and the plural includes the singular number.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath and in such cases the words "affirm" and "affirmed" shall be the equivalent to the words "swear" and "sworn."

Owner. The word "owner," applied to building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property includes money, goods, chattels, things in action, and evidences of debt.

Preceding; following. The words "preceding" and "following" shall mean next before and next after respectively.

Property. The word "property" shall include real and personal property.

Real Estate and real property. The terms "real estate" and "real property" shall include lands, tenements and hereditaments, and all rights thereto and interest therein equitable, as well as legal.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for use of pedestrians.

Signature or subscription. The word "signature" or "subscription" include a mark when a person cannot write.

State. The words "the state" or "this state" shall mean the State of Tennessee.

Street. The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the City.

Tenant. The words "tenant" or "tenants" and "occupant" or "occupants" applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Tense. The words in the past or present tense include the future, as well as the past and present.

Writing. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year.

SECTION 3. Catch Lines. The catch lines of several sections of the Code printed in bold face type are intended as mere catch words to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any such sections, including the catch lines, are amended or reenacted.

SECTION 4. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 17 below .

SECTION 5. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

SECTION 6. Effect of repeal of ordinances.

- (a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal became effective nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed.

SECTION 7. Severability parts of Code.

It is hereby declared to be the intention of the Board of Mayor and Aldermen and of the City that the sections, paragraphs, sentences, clauses and phrases of this Code are severable and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since such phrases, clauses, sentences, paragraphs and sections would have been enacted by the Board of Mayor and Aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION 8. Supplementation of the Code. Supplements to this Code shall be prepared and printed whenever authorized and directed by the Board of Mayor and Aldermen.

- (a) Supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the Board of Mayor and Aldermen during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from the reprinted pages.
- (c) When preparing a supplement to this Code the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 1. Organize the ordinance material into appropriate subdivision;
 2. Provide appropriate catch lines, headings and title for sections and other segregations of the code printed in the supplement, and make changes in such catch lines, headings and title;
 3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 4. Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc. as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 5. Make other non-substantive changes necessary to preserve the original meaning of the ordinance section inserted into the Code; but in no case shall

the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

- (d) The subsequent ordinances, as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are readopted as the new code by the Board of Mayor and Aldermen

SECTION 9. Amendments to Code; and Amendatory Language.

- (a) Amendment to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this code in the following language:

“Section ___ of the Code of the City of Harrogate, Tennessee (or Harrogate Municipal Code) is hereby amended to read as follows:
_____.”

The new provisions may then be set out in full as desired.

- (b) If a new section, article or chapter not hereinbefore existing in the Code is to be added, the following language may be used:

“The Code of the City of Harrogate, Tennessee (or Harrogate Municipal Code) , is hereby amended by adding a section (article or chapter) to be numbered _____, which section reads as follows:”

The new section, article or chapter may then be set out in full as desired.

- (c) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number as the case may be.

SECTION 10. Conflicts.

In case of conflict between any provision of this Code and any Code adopted herein by reference, the more restrictive provision shall apply.

SECTION 11. Reproduction and amendment of code. The Municipal Code shall be reproduced in loose-leaf form. The Board of Mayor and Aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the Municipal Code and revisions thereto. After adoption of the Municipal Code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the Municipal Code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new

provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

SECTION 12. General Penalties; Continuing Violations.

Unless otherwise specified in a title, chapter or section of the Municipal Code, including the codes and ordinances adopted by reference, whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful, or a civil offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or a civil offense, where no specific penalty is provided for, the violation of any such provision of this Code or any such ordinance shall be punished, upon conviction, by a civil penalty of not more than fifty (\$50.00) dollars and costs. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. Provided, however, that the imposition of a civil penalty under the provisions of this Code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where authorized by or under the provisions of the Harrogate Municipal Code or other applicable law. In any place in this Municipal Code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appear in the context of a penalty provision of this Municipal Code or any ordinance, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this Municipal Code or any ordinance, it shall mean "a civil penalty."

SECTION 13. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable time.

SECTION 14. Code as Evidence. Any printed copy of the Harrogate Municipal Code contained in a printed certificate of the Mayor and Recorder of the correctness thereof shall be held to be a true and correct copy and may be read in evidence of all courts of the State without further proof of the laws contained therein.

SECTION 15. Official Maps. The comprehensive block map of that territory within the corporate limits of the City covering the wards of the City, showing and designating in detail the various block, lots and parcels of land within the corporate limits of the City filed in the Register's Office of Claiborne County are hereby adopted as the official maps of the City.

SECTION 16. Flag.

- (a) The municipal emblem of the City shall be a flag of the following description or design:

The official flag of the City of Harrogate shall have a white background on which the City's seal is placed. The City's seal is a circle which features a blue sky with

the Cumberland Mountains shown in dark green in the background with there being a higher mountain to the right and a lower mountain on the left revealing a gap in the mountains. A roadway in the center of the circle leads from the bottom of the circle upward, with a slight arc from left of center to center, across a rolling hill toward the gap in the mountains. On either side of the roadway is a green field with rail fencing. On the right side of the roadway and behind the rail fence is an old plow designed to be pulled by a mule or team of mules. The circle is surrounded by a border which is separated from the circle by a gold line. The border is dark green, matching the color of the mountains. The roadway is a light tan or earth tone. The rail fence is a darker wood tone as is the plow. On the upper half of the border are inscribed, in gold letters, the words, "CITY OF HARROGATE TENNESSEE." On the lower half of the border are inscribed, in gold letters, the words and numerals, "INCORPORATED 1993." The word "CITY" is separated from the word "INCORPORATED" by a single dot. The word "TENNESSEE" is separated from the numerals "1993" by a single dot.

(b) The City flag shall never be displayed in any position that will indicate superiority to or precedence over the flag of the United States, but on all occasions when the City flag is displayed with the flag of the United State by the City itself on any of the City buildings or by any individual person, the flag of the United States shall be hoisted and displayed above the City flag.

SECTION 17. Ordinances not affected by adoption of Code.

The repeal provided for in Section 2 of the Ordinance adopting this Municipal Code shall not affect any of the following:

- (a) Any offense or act committed or done or any penalty of forfeiture incurred or any contract or right established or accruing before the effective date of the ordinance adopting this Code;
- (b) Any ordinance or resolution promising or guaranteeing the payment of money for the City or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness or any contract or obligations assumed by the City;
- (c) Any administrative ordinance or resolution of the City not in conflict or inconsistent with the provisions of this Code;
- (d) Any appropriation ordinance or resolution;
- (e) Any right or franchise granted by the Council to any person, firm or corporation.
- (f) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc. any street or public way in the City.
- (g) Any ordinance or resolution establishing and prescribing the street grades of any streets in the City.
- (h) Any ordinance or resolution providing for local improvements or assessing taxes therefore.

- (i) Any ordinance prescribing or extending the boundaries of the City;
- (j) Any zoning ordinance of the City or amendments thereto;
- (k) Any ordinance levying taxes;
- (l) The ordinance creating a civil defense agency;
- (m) The ordinances requiring a loyalty oath of all persons in the employ of or representing the City;
- (n) Any ordinances dedicating or accepting any plat or subdivision in the City or providing regulations for subdivisions;
- (o) Any ordinances enacted after the codification of the code of ordinances.
- (p) Nor shall such repeal be construed to revive any ordinance or part of any ordinance that has been repealed by a subsequent ordinance which is repealed by the adoption of this Code.

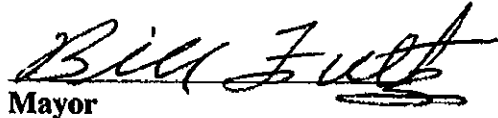
SECTION 18. Effective date. This ordinance shall take effect from and after its final adoption, the welfare of the City requiring it.

Approved first reading: January 24, 2011.

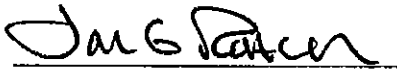
Approved second reading: February 28, 2011.



**City Recorder
Rose Kiser**


Mayor

Approved as to form:



**Jon G. Roach
City Attorney**