TITLE 1

GENERAL PROVISIONS

CHAPTER.

1. CODE OF ORDINANCES.
2. ELECTIONS AND REFERENDUMS.

CHAPTER 1

CODE OF ORDINANCES

1-1-1. Code adopted.

The accompanying revision, codification, consolidation and compilation of the ordinances of a general and permanent nature of the City of Hot Springs is hereby adopted and enacted as the official "Code of Ordinances of Hot Springs" and the same shall supersede the Code of Ordinances adopted pursuant to Ordinance No. 2497 of 1955.

1-1-2. How Code designated and cited.

The ordinances embraced in the following titles, chapters and sections shall constitute and be designated the "Code of Ordinances of Hot Springs, Arkansas," and may be so cited. Sections of this Code may also be cited by the abbreviation “H.S.C.” followed by the number of the section. For example, this section would be cited as “H.S.C. § 1-1-2." (Ord. No. 4970, § 1, 5-7-01)

1-1-3. Rules of construction.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless the context clearly indicates otherwise:

(a) *Board of directors*. Whenever the words "City Council" or "Board of Directors" are used, they shall be construed to mean the Board of Directors of the City of Hot Springs.

(b) *City*. The words "the city" or "this city" shall be construed as if the word "of Hot Springs" followed it and shall extend to and include its several officers, agents and employees.

(c) *Computation of time*. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

(d) *County*. The words "the county" or "this county" shall mean the County of Garland.

(e) *Gender*. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

(f) *Number*. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

(g) *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 "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

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

(i) *Person*. The word "person" shall include and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

(j) *Personal property*. The term "personal property" includes every species of property except real property.

(k) *State*. The words "the state" shall be construed to mean the State of Arkansas.

(l) *Time*. Words used in the present or past tense include the future as well as the present and past.

1-1-4. Catchlines of sections.

The catchlines of the several sections of the Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be the titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

1-1-5. Effect of repeal of ordinances.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

1-1-6. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of the Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

1-1-7. Code Editor.

It shall be the express duty of the city clerk or his/her designee to make and maintain all amendments, revisions and deletions to the Code as may from time to time be enacted and directed by the board of directors. A copy of the Code of Ordinances shall be kept on file in the office of the city clerk in such form or forms as may be expedient for use by the general public. The city clerk or his/her designee shall function as the editor of the Code. In exercising the powers and duties of the code editor, the city clerk shall not authorize any change in the substance or meaning of any provision of the Hot Springs Code of Ordinances or any ordinance or resolution enacted by the board of directors. However, the code editor or his/her designee is authorized to**:**

(a) Correct the spelling of words;

(b) Change the capitalization for the purpose of uniformity;

(c) Correct manifest typographical, punctuation and grammatical errors;

(d) Correct manifest errors in references to laws;

(e) Correct manifest errors in internal reference numbers;

(f) Substitute the proper Code section number, subchapter number, chapter number, subtitle number, title number, or other number or designation for the terms “this ordinance,” “this resolution,” “the preceding Code section,” or any similar words or phrases;

(g) Renumber, reletter, redesignate, and rearrange chapters, subchapters, sections, subsections, and subdivisions, or any combination or portion thereof;

(h) Change internal reference numbers to agree with renumbered chapters, subchapters, sections, subsections, subdivisions, or portions thereof;

(i) Substitute the correct calendar date for "the effective date of this ordinance" and other phrases of similar import;

(j) Correct inaccurate references to:

(1) Funds;

(2) Fund accounts;

(3) The titles of officers or employees;

(4) The names of departments or other agencies of the state or local governments or of the federal government; and

(5) The short titles of other laws;

(k) Make any other name changes necessary to be consistent with the laws or ordinances currently in effect;

(l) Rearrange definitions in alphabetical order;

(m) Insert or delete hyphens in words so as to follow correct grammatical usage;

(n) Change numerals or symbols to words or vice versa and add figures or words if they are merely a repetition of written words or vice versa for purposes of uniformity and style; and

(o) Change nouns from the singular to the plural or vice versa and change forms of verbs for purposes of style and grammar. (Ord. No. 4970, § 2, 5-7-01)

1-1-8. Amendments to Code.

All ordinances passed subsequent to the Code of Ordinances, which amend, repeal or in any way affect the Code of Ordinances, may be numbered in accordance with the numbering system of the Code and included therein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission therefrom and the subsequent ordinances as numbered or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that the Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the board of directors.

1-1-9. Code inclusions and exclusions.

In addition to ordinances of a general and permanent nature, the code editor is hereby authorized to include in the Code any resolutions of a permanent nature which may now or hereafter be enacted by the board of directors at the discretion of the editor or the city manager. Any such permanent resolutions which are included in the Code shall be noted as such by the editor and shall not be construed nor considered to have the effect of ordinance by virtue of inclusion in the Code.

The code editor is hereby authorized to exclude from the Code any portions of any ordinances or resolutions which are not of a permanent nature or which are not substantive to the ordinance or resolution. Ordinances relating to special purposes or those not of a general or permanent nature prescribed for and affecting the public as a whole may be excluded from the Code at the discretion of the editor.

1-1-10. Code notations.

The code editor is hereby authorized to make such reference, amendment and editorial notations within the Code as he/she may deem appropriate and to create such indexes, table of contents, comparative tables or other such reference aides to facilitate the use of the Code. All such notations, indexes and tables shall be clearly identified as such. All such notations, indexes and tables shall be for explanatory, commentary or reference purposes only and shall not be construed or considered as enactments of the board of directors.

1-1-11. Altering Code.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of the Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Hot Springs to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in the general penalty section of the Code. (Ord. No. 4380, §§ 1,3-6, 8-11, 2-28-94)

1-1-12--1-1-14. Reserved.

1-1-15. General penalty where no specific penalty provided.

Pursuant to A.C.A. §14-55-504, the following fine or penalty for violating any provisions of the Hot Springs Code of Ordinances shall be as stated hereinafter. This general penalty shall apply to all ordinances where no other fine or penalty is provided and to those ordinances which adopt this general penalty by reference.

(a) Fine or Penalty. Upon conviction in the municipal court, or any other court of competent jurisdiction, the fine or penalty shall not exceed five hundred dollars ($500.00) for any one specified offense or violation, or double that sum for each repetition of such offense or violation; provided, further, that 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 said code or any ordinance of this city, shall not exceed two hundred fifty dollars ($250.00) for each day that it may be unlawfully continued.

(b) Statutory Penalty. Notwithstanding the provisions contained within the foregoing subsection, the fine or penalty for violating any provisions of the Hot Springs Code of Ordinances shall not be less severe than any fine or penalty prescribed for similar offenses against the state laws by the statutes of the State of Arkansas.

(c) Imprisonment. Any person who, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, of any violation of any provision of the Hot Springs Code of Ordinances that is criminal in nature may, in addition to any other fines and penalties, be punished by not more than one (1) year in imprisonment.

(d) Permit or License Revocation. In addition to the other fines and penalties established hereby, the Hot Springs Municipal Court, or any other court of competent jurisdiction, may revoke any permit issued upon violation of any provision of the Hot Springs Code of Ordinances.

(Ord. No. 4917, § 1, 11-20-00, Ord. No. 4969, § 1, 5-7-01)

State law reference-Codification of ordinances, A.C.A. § 14-55-701 et seq.

Amendment note-A comprehensive review and reorganization of this Code of Ordinances was completed in 1994. As part of the recodification process, the following ordinances were enacted to repeal various ordinances which have been superseded or rendered ineffective since the last codification in 1955:

- Ord. No. 4223 (5-4-92), Ord. No. 4243 (7-20-92) and Ord. No. 4260 (10-19-92), repealed Ord. Nos. 531, 617, 2097, 2099, 2228, 2256, 2260, 2285, 2371, 2503, 2619, 2646, 2650, 2696, 2721, 2725, 2754, 2893, 3014, 3047, 3068, 3089, 3128, 3177, 3194, 3259, 3392, 3684, 3686, 3692, 3786, 3843, 3845, 3928, 2857, 2895, 2937, 2987, 2990, 2993, 3007, 3011, 3138, 3496 and 3685.
- Ord. No. 4225 (5/18/92) repealed Ord. Nos. 2166, 2359 and 2701.
- Ord. No. 4235 (6/15/92) repealed Ord. Nos. 2110, 2104, 2259, 2273, 2324, 2705, 3110, 3868 and 3873.
- Ord. No. 4239 (7/6/92) repealed Ord. Nos. 615, 908, 2662, 2671, 2674, 2896, 1053, 2440, 2540, 2640, 2157, 3258, 2962 and 2457.
- Ord. No. 4243 (7/20/92) repealed Ord. Nos. 531, 617, 2551 and 2494.
- Ord. No. 4245 (8/3/92) repealed Ord. Nos. 524, 2523, 2522, 2044, 386, 2381, 2806, 205, 2305, 3060, 2182, 3858, 2482, 2361, 2190, 374, 831, 3188, 2068, 602, 3065, 3132, 2488 and 1907 Code Sections 343, 282, 47, 50, 52, 53, 78, 79, 80, 81.
- Ord. No. 4255 (8/31/92) repealed Ord. Nos. 207, 380, 1045, 2560, 2851, 2862 and 3019.
- Ord. No. 4252 (9/21/92) repealed Ord. Nos. 2340, 3006, and Res. No. 383.
- Ord. No. 4260 (10/19/92) repealed Ord. Nos. 2857, 2895, 2937, 2987, 2990, 2993, 3007, 3011, 3138, 3496 and 3685.
- Ord. No. 4280 (1/25/93) repealed Ord. Nos. 3129, 3294, 3410, 3449, 3523 and 3540.
- Ord. No. 4288 (2-22-93) repealed Ord. Nos. 2727, 2901 and 3187.
- Ord. No. 4309 (4/26/93) repealed Ord. Nos. 3045, 3173, 3202, 3001, 3034, 3058, 2122, 2189, 338, 633, 2172, 2735, 2629, 2487, 2320, 2734, 2801, 2846, 3615, 2610, 2510 and 2351.
- Ord. No. 4313 (5/24/93) repealed Ord. Nos. 2845, 2925, 3293, 3303 and 3360.
- Ord. No. 4343 (10/5/93) repealed Ord. No. 3676.

CHAPTER 2

ELECTIONS AND REFERENDUMS

1-2-1. Initiative and referendum.

1-2-1.1. Initiative and referendum - Authority.

The initiative and referendum powers of the people of Hot Springs, Arkansas, shall be governed by Amendment No. 7 to the Constitution of the State of Arkansas and the general laws of the State of Arkansas. In this regard, fifteen per cent (15%) of the legal voters of Hot Springs may order the referendum or invoke the initiative upon any local measure. The number of signatures required upon any initiative or referendum petition shall be computed upon the total vote case for the office of Mayor at the last preceding general election.(Ord. No. 4533, § 1, 3-4-96)

1-2-1.2. Initiative and referendum - Filing times.

The time for filing an initiative petition shall be not less than sixty (60) days nor more than ninety (90) days before the election at which the initiative is to be voted upon. The time for filing a referendum petition shall be within thirty (30) days after the passage of any ordinance or resolution. All such petitions shall be filed during normal business hours in the office of the city clerk within the time frames enumerated herein. Should the final day of any filing deadline fall on a non-business day, the deadline shall be extended until close of business the next business day. (Ord. No. 4533, § 2, 3-4-96)

1-2-1.3. Initiative and referendum - Petition sufficiency.

The sufficiency of all initiative and referendum petitions shall be decided by the city clerk subject to review by the chancery court of Garland County. If the city clerk shall decide any petition to be insufficient, he/she shall without delay notify the sponsors of such petitions and permit ten (10) calendar days for correction or amendment. (Ord. No. 4533, § 3, 3-4-96)

1-2-1.4. Initiative and referendum - Publication.

All measures submitted to a vote of the people by petition under the provisions of this section shall be published as is now, or hereafter may be provided by the election laws of the state of Arkansas governing the particular measure to be voted upon. In the case of an election where publication requirements are not prescribed, the Mayor shall publish a notice of the call of such election in not less than one issue of a newspaper having a general circulation in the city of Hot Springs, Arkansas, and posting in five (5) public places in the city of Hot Springs, not less than five days prior to the date of the election. Such notice shall designate by its number, caption and date of passage, the measure which has been referred to the people for approval or rejection by their vote at such election.

Unless otherwise prescribed by law, the results of any initiative or referendum election shall be proclaimed by the Mayor, by publication one time in a newspaper of general circulation in the city of Hot Springs, and shall be conclusive unless attacked in the courts within thirty (30) days after such publication. (Ord. No. 4533, § 4, 3-4-96)

1-2-1.5. Initiative and referendum - Election.

Once an initiative or referendum petition has been found to be sufficient, the proper official shall call an election as prescribed by law. If a referendum is invoked as to any measure passed by the board of directors, the board of directors shall order a special election to determine by a vote of the qualified electors whether the ordinance or resolution shall stand or be revoked. The date fixed for any election shall be not less than ten (10) days from the date of the election proclamation publication or as otherwise provided by law. Initiative petitions shall be submitted by the authorized official only at regular elections. Referendums may be referred to the people at special elections. (Ord. No. 4533, § 5, 3-4-96)

1-2-2. Defeat of measure.

That if any ordinance or resolution referred to the people is defeated at the polls, the city clerk shall make note of such fact by marking the ordinance or resolution as repealed. (Ord. No. 4533, § 6, 3-4-96)