

## ORDINANCE NO. 2124

### AN ORDINANCE REGULATING THE USE OF BASIN SPRING PARK BY ARTISTS AND PERFORMERS AND AMENDING TITLE 4 CHAPTER 4.52 OF THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS, ARKANSAS

**WHEREAS**, the City recognizes Basin Spring Park as the natural gathering place for the majority of our downtown visitors; and

**WHEREAS**, the City recognizes the limited amount of space during peak times in Basin Spring Park which consists of only six thousand, four hundred (6,400) sq. ft. of area on the lower level and more than half of that space is dedicated to seating, statuary, flowerbeds and aisles for pedestrian traffic; and

**WHEREAS**, the City recognizes the value of Visual and Performing Arts to the community and respects First Amendment constitutional rights in Basin Spring Park; and

**WHEREAS**, the City seeks to protect the free flow of pedestrian traffic in a crowded public place such as Basin Spring Park; and,

**WHEREAS**, the provisions of this ordinance will promote the City's declared policies of supporting and encouraging Visual and Performing Arts consistent with constitutional requirements while ensuring that public safety is maintained in Basin Spring Park,

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS DOES HEREBY AMEND TITLE 4 CHAPTER 4.52 OF THE MUNICIPAL CODE AS FOLLOWS:**

**Section 4.52.01 Definitions** As used herein, the following terms shall have the following respective meanings:

**Artist** shall mean any person who creates, practices or demonstrates a visual art in the media of painting, photography, printmaking and sculpture.

**Art Guidelines** shall mean that set of rules that shall be declared by the Eureka Springs Parks Commission from time to time for use by the Director of Parks to assess applicants for a "Basin Spring Park Permit".

**Art Vendor** shall mean that person who sells their own hand-crafted visual art in the media of painting, photography, printmaking and sculpture.

**Basin Spring Park Map** shall mean the map authorized by the Eureka Springs Parks Commission that shows where a visual artist, fee performer or performer may create, practice, demonstrate or sell.

**Fee Performer** shall mean any person who performs for a set fee or has a required or minimum donation.

**Performer** shall mean any person who performs for gratuities or tips but has no set fee or required or minimum donation.

#### **Section 2: Privileges**

A. Artists and performers shall not perform or display in Basin Spring Park (1) when to do so will detract from or be in conflict with a Special Event Permit or by any party who has reserved the Band Shell at Basin Spring Park pursuant to the provisions of Chapter 4.56 herein (Special Events) or (2) between the hours of 9:00 p.m. and 9:00 a.m.

- B. Artists and performers in public areas shall not block pedestrian traffic.
- C. All art displayed for sale shall be created by the art vendors in the media of painting, photography, printmaking and sculpture. Permit cost will be \$50.00 per calendar year, beginning Jan. 1, 2011, and will be issued by the Eureka Springs Parks and Recreation Commission. Artists shall be required to display the permit while selling in the park.
- D. All fee performers shall be subject to the same permitting, space and location requirements as art vendors.
- E. No artist or performer shall use any electrical outlet belonging to the City without first having complied with the provisions of Chapter 4.56 herein (Special Events).
- F. No artist or performer shall run a generator or use an open wet cell battery.
- G. All artists and performers will comply with the City Noise Ordinance. (7.16.04)
- H. Artists and performers shall set up in the location requirements of the Basin Park Policy Map.
- I. Artists and performers may not use public planters, statuary or retaining walls as a part of their setups or performance.
- J. Performers shall not perform longer than two (2) hours at any particular location on any day unless a Special Events Permit has been received.
- K. Any person violating the terms of any provision of this section shall be guilty of a misdemeanor and assessed a fine of \$50 for the first violation, \$100 for the second violation and \$250 for the third violation. Upon three violations in a (1) year the permit will be revoked for one (1) year.

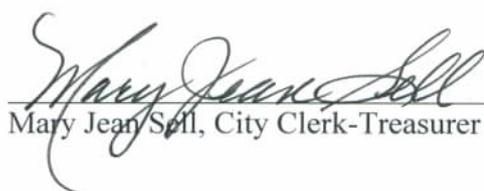
**Section 3:** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of that conflict.

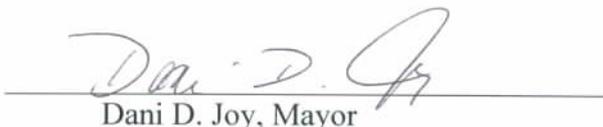
**Section 4:** Each of the provisions of this ordinance is severable and the decision of any court having jurisdiction as to the validity of any provision shall not affect the remaining provisions.

PASSED AND APPROVED this 23<sup>rd</sup> day of August, 2010

APPROVED:

ATTEST:

  
Mary Jean Sell, City Clerk-Treasurer

  
Dani D. Joy, Mayor