

**ORDINANCE No. 2161**

**AN ORDINANCE AMENDING CHAPTERS 11 AND 13 OF THE EUREKA SPRINGS MUNICIPAL CODE, SETTING CERTAIN REQUIREMENTS ON PERMITS ISSUED IN COMMERCIAL ZONES**

**WHEREAS**, the City Council of the City of Eureka Springs, Arkansas, has made a comprehensive study and review of the permit process for issuing construction, parking lots and/or demolition permits in commercial zones; and

**WHEREAS**, the Council believes that it is in the best interest of the City and its Citizens to provide further review before issuance of said permits;

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, THAT:**

**Section 1.** Chapter 11 of the Eureka Springs Municipal Code is hereby amended to include the following requirements:

1. Prior to the issuance of any new commercial construction, parking lot and/or demolition permit within any commercial zone within the corporate city limits of Eureka Springs, Arkansas, the property owner or his/her representative in addition to making application to the Building Official, shall submit the application, with all accompanying data, to the Planning Commission for consideration and approval or disapproval at their next meeting after submission to them and no later than 45 days after submission.
2. The Building Official shall only issue a new commercial construction, parking lot and/or demolition permit after approval by majority vote of the Planning Commission or as otherwise provided herein, unless the work is required for public safety or hazardous conditions.

**Section 2.** That Chapter 13 of the Eureka Springs Municipal Code is hereby amended to include the following requirements:

1. Upon submission by the property owner or his/her representative of any application for issuance of any new commercial construction, parking lot and/or demolition permit to the Planning Commission, the Commission shall act upon the application for approval or disapproval by majority vote thereof at their next meeting occurring no later than 45 days after submission. The Commission shall review the application for appropriateness under the Eureka Springs Municipal Code, all City adopted building and/or construction codes and any adopted guidelines of the Eureka Springs Planning Commission.
2. The Chairman of the Planning Commission shall notify the Building Official and the property owner or his/her representative, of the Commission's action within 3 business days. Notification shall be in writing and shall be by hand delivery or United States Mail. Depositing notification, postage prepaid in the United States Mail, shall be considered completed notification.
3. If for any reason the Planning Commission shall fail to act on the application within 45 days of its submission to them by the property owner or his/her representative, the Mayor may direct the Building Official, in writing, within ten days thereof, to approve or disapprove the permit without action by the Commission. The Mayor is not required to do so though; if in his or her judgment that to do so would not be otherwise permitted by law. Lack of action by the Mayor within ten days shall be considered a denial.

4. All denials by the Planning Commission or Mayor may be appealed to the Eureka Springs City Council by notification of appeal filed in writing by the property owner or his/her representative, within 30 days of the denial, with the City Clerk. The City Clerk shall place the appeal on the City Council's next meeting agenda occurring no sooner than 10 days after filing and no later than 45 days after filing.

5. City Council may upon consideration of said appeal approve or deny the permit by majority vote. The City Clerk shall notify the Building Official and the property owner or his/her representative, of the Council's action within 3 business days. Notification shall be in writing and shall be by hand delivery or United States Mail. Depositing notification, postage prepaid in the United States Mail, shall be considered completed notification.

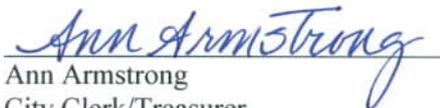
6. Denials of an appeal by the City Council shall be appealable to any Court of competent jurisdiction as otherwise provided by law.

**Section 3.** Repeal Clause: All Ordinances, Resolutions, and parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4.** Severability Clause: In the event that any section, subsection, 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, code section or chapter 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, Code, code section or chapter shall remain in effect.

**PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, ON THIS THE 12<sup>th</sup> DAY OF NOVEMBER 2012**

**ATTEST:**

  
Ann Armstrong  
City Clerk/Treasurer

**APPROVED:**

  
Morris Pate  
Mayor

Aldermen voting "Aye" – Ken Pownall, Karen Lindblad, Parker Raphael, Butch Berry and James DeVito