

**ORDINANCE NO. 1932**

**AN ORDINANCE REGULATING THE OFFICE OF THE CITY ATTORNEY**

**WHEREAS**, the City of Eureka Springs is in frequent need of legal counsel; and  
**WHEREAS**, the elected city attorney's duties were previously reduced by ordinance to the role of city prosecutor; and

**WHEREAS**, it is in the best interest of the city to consolidate its legal representation; and

**NOW, THEREFORE, BE IT HEREBY ORDAINED:**

Section 1. Sections 141 to 145 of Chapter 2 of the Eureka Springs Municipal Code is hereby amended to read as follows:

Section 141. Specified - The term city attorney applies only to the person elected to the office of city attorney by the qualified electors of the city at any general election or special election held for the purpose of electing public officials. The term shall not be construed to apply to any person employed or designated as city attorney or as legal counsel to the city by the city council or the mayor.

Section 142. Qualifications - The city attorney shall be a qualified elector and resident of the city and a regularly licensed attorney in the State.

Section 143. Private Law Practice - The city attorney shall be permitted to engage in the full-time private practice of law simultaneously while discharging his or her public duties.

Section 144. Duties:

A. The city attorney at the request of the mayor or two members of the city council shall attend regular meetings of the city council and upon sufficient notice, shall attend special meetings of the city council.

B. The city attorney shall be legal counsel to the city cemetery commission, city planning commission, the city board of adjustment, and the city historic district commission. The city attorney shall attend meetings of these commissions and boards upon sufficient notice and at the request of the mayor. All commissions and boards shall submit written requests to the mayor and receive his or her written approval before initiating communications with the city attorney on new matters. This shall not prevent ongoing communication between any commission or board and the city attorney over approved matters by and from the mayor. Any action or inaction of the mayor, following the written request of a chairman, can be overridden by 2/3 majority vote of the city council.

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C. The city attorney shall represent the city where the presence of legal counsel is required or desirable, in all judicial and administrative proceedings where the city or any of its commissions or the board of adjustment is a party. The mayor, as otherwise provided by ordinance or state statute, may contract with outside legal counsel to assist the city attorney with respect to his or her responsibility or to assume responsibility as to any particular legal action.

D. The city attorney shall be legal counsel to all administrative department supervisors, including the chief of the police department, chief of the fire department, city building inspector, and enforcing officers for local ordinances, with respect to matters pertaining to the execution by such supervisors of their respective duties and the administration of their respective departments. The mayor, the chief of the police, the city fire marshal city building inspector and the city planner shall have the right to initiate direct communication with the city attorney. All other city personnel and city officials and appointees shall submit written requests to the Mayor and receive his or her written approval before initiating communications with the city attorney on new matters. This shall not prevent ongoing communication between any city personnel, city officials or appointees and the city attorney over approved matters; nor, shall it prevent any employee from initiating contact with the city attorney if he or she witnesses another employee being or has personally been subjected to any type of discrimination in the work place.

E. The city attorney shall prepare or supervise the preparation of all ordinances, resolutions, judicial pleadings, contracts, deeds, leases, and other legal documents which shall be required for the benefit of the city; and this subsection shall be construed to include legal documents required with respect to any aspect of the affairs of the city, whether by virtue of its relationship to another elected official, to the city council, to an administrative department supervisor, or a legally created commission or board, unless the mayor has contracted with outside legal counsel to perform one of the duties listed above.

F. The city attorney or his duly appointed and qualified deputy shall attend each public convening of the District Court of the city for the purpose of representing the city as the prosecutor of all defendants brought before the Court upon citation, information, criminal summons or warrant for arrest, wherein such defendants have been charged with the commission of any violation or misdemeanor within the corporate limits of the city. The city attorney or his duly appointed and qualified deputy shall also prosecute or defend, as the case may be, all appeals taken from the District Courts to the Circuit Court of the Western or Eastern District of County and all appeals taken from the Circuit Court to the Arkansas Supreme Court or Arkansas Court of Appeals in which the city shall be a party. With respect to his or her prosecutorial duties, the city attorney shall also prepare and file information with the clerk of the District Court, thereby causing warrants for arrest to be issued by the clerk, upon findings by the city attorney that there is reasonable cause, in each such instance, to believe that the

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