

ORDINANCE NO. 1956

AN ORDINANCE AMENDING ARTICLE 94 SECTIONS 121 AND 127 OF THE EUREKA SPRINGS MUNICIPAL CODE;

WHEREAS, the City Council of the City of Eureka Springs, Arkansas, having reviewed the Eureka Springs Municipal Code regarding retaining walls is of the opinion thath the matter should be clarified;

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

Section 1. That the definition of “public right-of-way” in Article 94 Section 121 of the Eureka Springs Municipal Code, is amended to read:

Public right-of-way means a path, sidewalk or thoroughfare owned by the city that is intended for public use.

Section 2. That Subsection (d) Article 94 Section 127 of the Eureka Springs Municipal Code, is amended to read follows:

(d) If after reasonable effort it is not possible to determine which party caused the retaining wall to be constructed, the primary purpose of the wall shall be the determining factor on participation in maintenance and repairs as follows:

(1) If a retaining wall directly supports a public right-of-way or a city owned property or is situated within a city easment, the city shall be solely responsible for the maintaining the retaining wall and for the payment of all repair costs.

(2) If a retaining wall directly or indirectly supports privately owned property, or privately owned property within a city easement or is so situated that if it collapsed it would render a street or other city property or easement unsafe or impassable, the property owner shall be solely responsible for maintaining the retaining wall and payment of all repair costs.

Section 3. If any part of this ordinance is found unenforceable for any reason whatsoever by a court of competent jurisdiction, in shall not affect the remaining parts thereof.

Section 4. That all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said ordinance.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, AR, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2004.

APPROVED:

\_\_\_\_\_  
KATHY HARRISON, Mayor

ATTEST:

\_\_\_\_\_  
MARY JEAN SELL, Clerk

