

ORDINANCE NO. 1036

AN ORDINANCE AMENDING ORDINANCE NO. 943
OF THE CITY OF EUREKA SPRINGS, ARKANSAS,
PERTAINING TO THE SUBDIVISION OF LAND WITHIN
THE AREA REGULATED BY SAID CITY.

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

SECTION 1. DEFINITIONS.

1.1. Subsection 1.5. of Ordinance No. 943 is hereby
amended to read, in its entirety, as follows:

"1.5. Subdivision. The division of a parcel of
land into three (3) or more lots or parcels for the
purpose of transfer of ownership or building development.
However, a division of land into less than three (3)
parcels or lots, so long as no parcel or lot is under
three (3) acres in size, is not considered a subdivision
for the purposes of this Ordinance. Also, the division
of land where all lots or parcels front on an existing
dedicated street or right-of-way is not to be considered
a subdivision for the purposes of this Ordinance."

1.2. Section 1 of Ordinance No. 943 is hereby amended
by adding an additional subsection, designated as Subsection 1.13.,
which shall provide as follows:

"1.13. Collector Streets. Those primary streets
which collect traffic from secondary streets to provide
the best and most convenient entrance to and exit from
a subdivision."

SECTION 2. ESTABLISHMENT OF SUBDIVISION REGULATIONS.

Subsections 2.1. and 2.2. of Ordinance No. 943 are hereby
confirmed and ratified in their respective entireties.

SECTION 3. PROCEDURAL REQUIREMENTS.

3.1. Subsection 3.1. of Ordinance No. 943 is hereby
amended to read, in its entirety, as follows:

"3.1. Application and Sketch Plan. A subdivider who desires to develop land subject to regulation by the provisions of this Ordinance shall submit the following to the Secretary of the Planning Commission:

(a) Two (2) copies of a letter of intent setting forth any desired variance known to the subdivider at the time of submission;

(b) Two (2) copies of a sketch plan of the land sought to be subdivided, both of which shall remain in the sole and exclusive custody, control and care of the Planning Commission at all times thereafter, prepared by a registered surveyor or registered engineer of the subdivider's choice, and containing

(1) A certified boundary survey and legal description thereof,

(2) A showing of the size and shape of the lots and the proposed streets within the subdivision, and

(3) Information as to the areas subject to flooding or any other impairment which would affect the health and safety of citizens within the boundaries of the subdivision; and

(c) A fee for processing the application in the sum of ~~Two Hundred and No/100 Dollars (\$200.00)~~ ^{Two Hundred and No/100 Dollars (\$250.00)} ~~(#250.00)~~

The subdivider shall do such clearing and staking of the proposed roads and streets necessary to provide reasonable accessibility and to allow inspection of the proposed subdivision site."

3.2. (a) The first sentence of Subsection 3.2. of Ordinance No. 943 is hereby amended to read, in its entirety, as follows:

"Upon receipt of the letter of intent and the sketch plan, both in duplicate, with all required information thereon, the Planning Commission shall cause not less than three (3) of its members, plus the City Council liaison to the Planning Commission, to inspect the proposed subdivision site and to make a written report of their findings and recommendations, including any objections to the proposed subdivision, with the original thereof being submitted to the Planning Commission and a copy thereof being forwarded to the subdivider."

(b) Subsection 3.2. of Ordinance No. 943 is hereby further amended by inserting a new sentence therein between the existing second and third sentence thereof, to-wit:

"If the inspection team determines that a registered engineer, not employed by the subdivider, should be consulted

and/or that a registered engineer, not employed by the subdivider, should inspect the subdivision site and/or perform tests at the subdivision site, such registered engineer shall be retained for such purpose or purposes by the Planning Commission, ~~and any fees for services rendered by such registered engineer shall be fully paid by the subdivider through the City Clerk Treasurer of the City.~~"

3.3. Subsection 3.3. of Ordinance No. 943 is hereby amended by deleting the existing third and fifth sentences thereof and by causing the existing fourth sentence thereof to read, in its entirety, as follows:

"The City Council shall review the records of the Planning Commission, may inspect the site of the proposed subdivision, may consider any relevant testimony offered by the Planning Commission and/or the subdivider at a regular meeting of the City Council, and shall discuss its findings and determinations and shall declare its decision at a regular meeting of the City Council."

3.4. Subsection 3.4. of Ordinance No. 943 is hereby amended to read, in its entirety, as follows:

"3.4. Public Area. When a proposed subdivision does not provide an area or areas for a community or public facility, the Planning Commission shall require a reasonable dedication of land by the subdivider for such public or community facilities, or for a reasonable equivalent contribution in lieu of dedication of land, such contribution to be used for the acquisition of facilities to serve the subdivision. The Planning Commission shall make such requirement within six (6) months after the submission of the letter of intent and the sketch plan, both in duplicate, by the subdivider."

3.5. Subsection 3.5. of Ordinance No. 943 is hereby amended, in part, as follows:

(a) The first existing sentence thereof is hereby amended to read, to-wit:

"Upon receipt of notice that the Planning Commission or the City Council, on appeal, or the Circuit Court, on appeal, has approved the sketch plan, the subdivider shall proceed with the preparation of the final plat in conformity with the sketch

plan previously approved and with all other requirements of law, to be drawn to a scale not to exceed one (1) inch equals one hundred (100) feet."

(b) Part (c) thereof is hereby amended to provide, in its entirety, to-wit:

"The names and addresses of each owner, each developer, each surveyor and/or each engineer"

(c) Part (f) thereof is hereby amended to provide, in its entirety, to-wit:

"Contour lines at twenty (20) feet contour intervals".

3.6. Subsection 3.6. of Ordinance No. 943 is hereby amended to provide, in its entirety, to-wit:

"Additional Data. The Planning Commission shall require verification by the subdivider that the following information has been prepared and submitted for study by the appropriate agencies:

(a) Two (2) prints of detailed water line plans, sanitary sewer plans, dimensions and fire hydrant locations, submitted to the Planning Commission for approval by the Water and Sewer Committee of the City Council and by the Fire Chief of the City.

(b) Two (2) prints of detailed engineering plans and profiles of storm drainage improvements to be submitted to the Planning Commission upon its determination that such improvements are reasonable and feasible for the subdivision.

(c) Approval by the Division of Engineering, Arkansas State Department of Health, of the water supply system, water distribution system and sewerage system.

(d) Two (2) prints of the plan and profile for each proposed street in the subdivision, with grade indicated, submitted to the Planning Commission for approval by the Street Committee of the City Council."

SECTION 4. The title of Section 4. of Ordinance No. 943 is hereby amended to read as follows:

"STREETS, SIDEWALKS, GUTTERING, CURBING, EASEMENTS, LOTS, BLOCKS, WATER SYSTEM, SEWERAGE SYSTEM, UTILITIES AND VARIANCES."

4.1. Subsection 4.1. of Ordinance No. 943 is hereby amended to provide, in its entirety, to-wit:

"Streets. The character and location of all streets within the subdivision shall conform with a use plan consistent with the overall land use plan of the City,

including a minimum width of right-of-way not less than fifty feet (50') for all collector streets and not less than forty feet (40') for all local streets for transportation and placement of utility easements. All dead-end streets shall have a cul-de-sac with a minimum radius of forty feet (40'). In the event special conditions require a greater right-of-way, the inspection team of the Planning Commission shall advise the subdivider of the additional requirements and shall forward those additional requirements to the Planning Commission for its consideration as a condition upon which approval of the proposed subdivision will be granted. The developed portion of all collector streets in the subdivision shall have a minimum width of twenty-four feet (24') and the developed portion of all local streets in the subdivision shall have a minimum width of twenty feet (20')."

4.2. Subsection 4.2. of Ordinance No. 943 is hereby amended to provide, in its entirety, to-wit:

"Surfacing. The subdivider shall construct a hard, all-weather surface on all streets within the subdivision in accordance with the specifications of the City, to be either a two-inch bituminous mixture or a double-coated chip and seal, and either to be over a rolled limestone base of four and one-half inches (4½"), provided, the Planning Commission is hereby authorized to waive this street surface base requirement upon the determination of a registered engineer, not employed by the subdivider and to be chosen by the Planning Commission, that a lesser or different street base is adequate for the street or streets under consideration."

4.3. Subsection 4.3. of Ordinance No. 943 is hereby amended to provide, in its entirety, to-wit:

"The subdivider shall be required to furnish and pay for all improvements of streets and placement and extension of all water and sewer lines within the subdivision, with all such extensions being in conformity with the requirements of the City and of the Division of Engineering, Arkansas State Department of Health. The Planning Commission is hereby authorized to require the subdivider to furnish and pay for public sidewalks, public curbing along the sides of any street and/or public guttering along the sides of any street and to

cause any such requirement to be a condition for approval of the proposed subdivision."

4.4. Subsection 4.4. of Ordinance No. 943 is hereby amended to provide, in its entirety, to-wit:

"Easements. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary, and shall be at least fifteen feet (15') wide. For residential lots, such easements shall be provided and centered on alternating side lot lines."

4.5 Subsection 4.5. of Ordinance No. 943 is hereby confirmed and ratified in its entirety.

4.6. Subsection 4.6. of Ordinance No. 943 is hereby amended to read, in its entirety, as follows:

"Area. Minimum area requirements for lots shall be ten thousand (10,000) square feet, and all residential lots shall contain a minimum frontage of one hundred feet (100'), and all commercial lots shall contain a minimum frontage of eighty feet (80'). No lot in any subdivision may be split or subdivided into two (2) or more smaller lots or parcels after approval of the final plat by the Planning Commission."

4.7. Section 4. of Ordinance No. 943 is hereby amended by adding a new subsection designated as 4.7. and providing as follows, to-wit:

"Water Systems and Sewerage Systems. The subdivider shall connect the water system and the sewerage system of the subdivision to the corresponding systems of the City."

4.8. Section 4. of Ordinance No. 943 is hereby further amended by adding a second new subsection designated as 4.8. and providing as follows, to-wit:

"Utilities. All utilities shall be underground, provided, the Planning Commission is hereby authorized to waive this requirement, but only as to electric utilities and/or telephonic utilities, upon the determination of a registered engineer, not employed by the subdivider and to be chosen by the Planning

Commission, that compliance with such requirement, with respect to electric utilities and/or telephonic utilities, shall operate oppressively or shall create an undue hardship on the subdivider under all of the attendant circumstances."

4.9. Section 4. of Ordinance No. 943 is hereby further amended by adding a third new subsection designated as 4.9. and providing as follows, to-wit:

"Variances. Only variances requested by the subdivider and submitted in writing and in duplicate by the subdivider to the Planning Commission shall be considered and acted upon by the Planning Commission. All requested variances shall be stated with particularity and specificity. Any variance, if granted, shall operate so as to bind the subdivider to strict compliance with its particular and specific provisions. Failure to so comply shall constitute a violation of this Ordinance."

SECTION 5. The title of Section 5 of Ordinance No. 943 is hereby amended to read as follows:

"RESTRICTIONS OR COVENANTS, FINAL PLAT, IMPROVEMENTS, APPROVAL BY PLANNING COMMISSION, ACCEPTANCE BY CITY AND RECORDING OF PLAT."

5.1. Subsection 5.1. of Ordinance No. 943 is hereby amended to provide, in its entirety, to-wit:

"The subdivider shall submit to the Planning Commission ten (10) copies of any restrictions or covenants proposed by the subdivider for the subdivision, and the Planning Commission may require additions thereto, deletions therefrom or other modifications thereof."

5.2. Subdivision 5.2. of Ordinance No. 943 is hereby amended to provide, in its entirety, as follows:

"Upon submission of all required supporting documentation and the final plat by the subdivider to the Planning Commission and upon full compliance, to the satisfaction of the Planning Commission, by the subdivider with each applicable provision of this Ordinance, the Planning Commission shall approve the

proposed subdivision and such approval shall be certified by the Chairman and Secretary of the Planning Commission in writing to the City Council. The City Council, upon its finding that the subdivider has fully complied with each applicable provision of this Ordinance and upon its receipt of the certificate of approval from the Planning Commission, shall adopt an ordinance, to be prepared by the subdivider and approved by the City of Eureka Springs, which shall both accept the proposed subdivision and appropriately amend the Zoning Map of the City. With respect to amending said Zoning Map of the City, a public hearing shall first be held in accordance with Subsection 8-4 of Ordinance No. 915 of the City, as amended. Upon the effective date of said ordinance, the subdivider shall cause a certified copy thereof, a certified copy of the approved final plat of the subdivision and a copy of any approved restrictions or covenants to be filed for record in the Western District Office of the Circuit Clerk and Ex-Officio Recorder of Carroll County, Arkansas, and shall promptly thereafter furnish the City with six (6) filemarked copies each of the approved final plat and of the approved restrictions or covenants."

5.3. Part (b) of Subsection 5.3. of Ordinance No. 943 is hereby amended to provide, in its entirety, as follows:

"The lot is part of a subdivision recorded by the Circuit Clerk and Ex-Officio Recorder of Carroll County, Arkansas."

5.4. Subsection 5.4. of Ordinance No. 943 is hereby amended to provide, in its entirety, as follows:

"Plat. No subdivision plat within the area of authority of the City shall be recorded by the Circuit Clerk and Ex-Officio Recorder of Carroll County, Arkansas, prior to the effective date of the ordinance required by Subsection 5.2. of this Ordinance."

5.5. Subsection 5.5. of Ordinance No. 943 is hereby confirmed and ratified in its entirety.

5.6. Subsection 5.6. of Ordinance No. 943 is hereby confirmed and ratified in its entirety.

SECTION 6. UTILITIES.

6.1. Subsection 6.1. of Ordinance No. 943 is hereby amended to read, in its entirety, as follows:

"All public utility companies operating under a valid franchise granted by the City shall have the right to locate their utility within the easements set forth on the recorded plat of the subdivision, and each such utility shall promptly furnish service to applicants within the approved subdivision."

SECTION 7. PENALTY FOR VIOLATION.

7.1. Subsection 7.1. of Ordinance No. 943 is hereby amended to read, in its entirety, as follows:

"A violation of any provision of this Ordinance is hereby declared to be a misdemeanor, and upon conviction thereof, a fine shall be assessed of not less than Fifty and No/Dollars (\$50.00) nor more than Five Hundred and No/Dollars (\$500.00), and each day a violation continues to exist shall constitute a separate offense of the pertinent provision or provisions of this Ordinance."

SECTION 8. SEVERABILITY AND REPEAL.

8.1. Severability. The provisions of this Ordinance are hereby declared to be severable. If any provision shall be held invalid, unenforceable and/or inapplicable to any person or circumstance ^{by a Court of competent jurisdiction;} such holding shall not affect the remainder of the provisions of this Ordinance.

8.2. Repeal. All ordinances, resolutions and minute orders, and all parts thereof, in conflict with this Ordinance are hereby repealed and superseded to the extent of such conflict, provided, this provision shall not operate to invalidate any subdivision heretofore accepted by the City and for which a plat shall have been filed for record.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EUREKA SPRINGS, ARKANSAS, ON THIS 24th DAY OF JUNE, 1978.

APPROVED:

Charles F. Robertson
CHARLES F. ROBERTSON, Mayor

ATTEST:

June I. Moncravie
JUNE I. MONCRAVIE, City Clerk-Treasurer

(SEAL OF THE CITY)

EMERGENCY DECLARED

The City Council of the City of Eureka Springs, Arkansas, finds that Ordinance No. 1036 is essential to the health, safety and welfare of the City of Eureka Springs, Arkansas, and to the residents thereof, and that an emergency exists necessitating the immediate effectiveness thereof. Therefore, an emergency is declared to exist, and Ordinance No. 1036 shall be in full force and effect upon its publication according to law.

PASSED AND DECLARED ON THIS 24th DAY OF JUNE, 1978,
BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS.

APPROVED:

Charles F. Robertson
CHARLES F. ROBERTSON, Mayor

ATTEST:

June I. Moncravie
JUNE I. MONCRAVIE, City Clerk-Treasurer

(SEAL OF THE CITY)