

ORDINANCE NO. 1047

AN ORDINANCE ESTABLISHING AN HISTORIC DISTRICT
COMMISSION OF AND FOR THE CITY OF EUREKA SPRINGS,
ARKANSAS, AND PROVIDING FOR RELATED MATTERS.

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

LEGISLATIVE PURPOSE

The purpose of this Ordinance is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of buildings, sites, places and districts of historic interest, through the maintenance of such as landmarks in the history of architecture of the City of Eureka Springs, Arkansas, and through the development of appropriate settings for such buildings, places and districts.

SECTION 1. HISTORIC DISTRICT COMMISSION ESTABLISHED.

There is hereby established an Historic District Commission of and for the City of Eureka Springs, Arkansas, hereinafter referred to as "the Commission". The Commission is established pursuant to the authority of Act 484 of 1963, as amended by Act 170 of 1965 and by Act 480 of 1977, Acts of Arkansas, presently codified as Ark.Stat.Ann. §§19-5001 through 19-5011 (1968 Repl. and Suppl. 1977).

SECTION 2. APPOINTMENT, QUALIFICATIONS, TERM, VACANCIES, COMPENSATION, OFFICERS AND AUTHORITY.

The Commission shall consist of five (5) members appointed by the Mayor, subject to confirmation by the City Council, who shall be electors of the City of Eureka Springs, Arkansas, holding no salaried or elective municipal office. The appointments to membership on the Commission shall be so arranged that the term of at least one (1) member will expire each year, and their successors shall be appointed in a like manner for terms of three (3) years. Vacancies shall be filled in like manner for the unexpired term. All members shall serve without compensation. The Commission shall elect a Chairman and Vice-Chairman annually from its own number. The Commission may adopt rules and regulations not inconsistent with the provisions of this Ordinance and may, subject to appropriation, employ clerical and technical assistance or consultants and may accept money, gifts or grants, and use the same for such purposes.

SECTION 3. PROCEDURE FOR ESTABLISHMENT OF HISTORIC DISTRICTS.

Historic Districts shall be established within the corporate limits of the City of Eureka Springs, Arkansas, pursuant to the following provisions:

A. The Commission shall make an investigation and report on the historic significance of the buildings, structures, features, sites or surroundings, included in any such proposed historic district and shall transmit copies of its report to the Arkansas Historic Preservation Program, a Division of the Arkansas Department of Natural and Cultural Heritage, and the Planning Commission of the City of Eureka Springs, Arkansas, for their consideration and recommendation, and each such body shall give its recommendation to the Historic District Commission within sixty (60) days from the date of receipt of such report. Such recommendations shall be read in full at the public hearing to be held by the Historic District Commission as hereinafter specified. Failure to make recommendations within sixty (60) days after date of receipt shall be taken as approval of the report of the Historic District Commission.

B. The Commission shall hold a public hearing on the establishment of a proposed historic district after giving notice of such hearing by publication in a newspaper of general circulation in the municipality once a week for three (3) consecutive weeks, the first such publication to be at least twenty (20) days prior to said public hearing. Such notice shall include the time and place of said hearing, specify the purpose and describe the boundaries of the proposed historic district.

C. The Commission shall submit a final report with its recommendations and a draft of a proposed ordinance to the City Council within sixty (60) days after the public hearing. The report shall contain the following:

1. A complete description of the area or areas to be included in the historic district or districts. Any single historic district may embrace noncontiguous lands;
2. A map showing the exact boundaries of the area or areas to be included within the proposed district or districts;

3. A proposed ordinance designed to implement the provisions of this Ordinance;

4. Such other matters as the Commission may deem necessary and advisable.

D. The City Council, after reviewing the report of the Commission, shall take one (1) of the following steps:

1. Accept the report of the Commission and enact an ordinance to carry out the provisions of this act;

2. Return the report to the Commission with such amendments and revisions thereto as it may deem advisable, for consideration by the Commission and a further report to the City Council within ninety (90) days of such return;

3. Reject the report of the Commission, stating its reasons therefor, and discharge the Commission.

E. The Commission may, from time to time, by following the procedures set out in subsections (B) to (D), inclusive, of this section, suggest proposed amendments to any ordinance adopted hereunder or suggest additional ordinances to be adopted hereunder.

SECTION 4. CERTIFICATE OF APPROPRIATENESS REQUIRED.

No building or structure, including stone walls, fences, light fixtures, steps and paving or other appurtenant fixtures, shall be erected, altered, restored, moved, or demolished within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the Commission. A certificate of appropriateness must be issued by the Commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures. A certificate of appropriateness shall be required, whether or not a building permit is required. For purposes of this Ordinance, "exterior architectural features" shall include the architectural style, general design and general arrangement of the exterior of a structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant

fixtures.

SECTION 5. INTERIOR ARCHITECTURAL FEATURES OF NO CONCERN TO THE COMMISSION.

In its deliberations under this Ordinance, the Commission shall not consider interior arrangement or use and shall take no action under this Ordinance except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures or appurtenant fixtures, in the Historic District obviously incongruous with the historic aspects of the District.

SECTION 6. PROCEDURE FOR ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

A. Within a reasonable time not to exceed thirty (30) days after the filing of an application for a certificate of appropriateness with the Commission, said Commission shall determine the property to be materially affected by such applications and forthwith send by mail, postage prepaid, to the applicant and to the owners of all such properties to be materially affected, notice of the hearing to be held by the Commission on said application.

B. The Commission may hold such public hearings as are necessary in considering any applications for certificates of appropriateness. The Commission shall act on such application for certificate of appropriateness within a reasonable period of time. The Commission shall determine whether the proposed construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, or appurtenant fixtures involved will be appropriate to the preservation of the Historic District for the purposes of this Ordinance, or whether, notwithstanding that it may be inappropriate, owing to conditions especially affecting the structure involved, but not affecting the Historic District generally, failure to issue

a certificate of appropriateness will involve a substantial hardship, financial or otherwise, to the applicant, and whether such certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Ordinance.

C. If the Commission determines that the proposed construction, reconstruction, alteration, restoration, moving or demolition is appropriate or is not appropriate, owing to conditions as aforesaid but that failure to issue a certificate of appropriateness would involve substantial detriment or derogation as aforesaid, or if the Commission fails to make a determination within a reasonable time prescribed by ^{this} Ordinance, the Commission shall forthwith approve such application and shall issue to the applicant a certificate of appropriateness. If the Commission determines that a certificate of appropriateness should not be issued, it shall place upon its records the reasons for such determination and may include recommendations respecting the proposed construction, reconstruction, alteration, restoration, moving or demolition. The Commission shall forthwith notify the applicant of such determination.

SECTION 7. CERTAIN CHANGES NOT PROHIBITED.

Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a change in design, material color, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the Building Inspector shall certify is required by the public safety because of an unsafe or dangerous condition; nor to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature under a permit issued by the Building Inspector prior to the effective date of the establishment of said Historic District.

SECTION 8. APPEALS TO CHANCERY COURT.

Any applicant aggrieved by the determination of the Commission may, within 30 days after the making of such decision, appeal to the Chancery Court of the Western District of Carroll County,

The Court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the reasons given for such determinations to be unsupported by the evidence or to be insufficient in law and may make such other decree as justice and equity may require. The remedy provided by this section shall be exclusive; but the applicant shall have all rights of appeal as in other equity cases.

SECTION 9. PETITION SIGNED BY NUMERICAL MAJORITY OF PROPERTY OWNERS WITHIN PROPOSED HISTORIC DISTRICT REQUIRED; EXCEPTION.

The Chancery Court of the Western District of Carroll County, Arkansas, shall have jurisdiction in equity to enforce the provisions of this Ordinance in the rulings issued thereunder and may restrain by injunction violations thereof. Provided, none of the provisions of this Ordinance shall be in operation until and unless there shall have been filed with the City Clerk-Treasurer a petition signed by a majority in numbers of the property owners within such proposed historic district agreeing that their property shall be included in such historic district. However, the requirement made by the immediately preceding sentence shall not apply to the provisions of Section 11 of this Ordinance.

SECTION 10. VIOLATION TO CONSTITUTE A MISDEMEANOR.

Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$10.00 nor more than \$500.00. Each day that a violation continues to exist shall constitute a separate offense.

SECTION 11. AUTHORITY AND JURISDICTION OF THE HISTORIC DISTRICT COMMISSION WITH RESPECT TO PROPERTIES PRESENTLY DESIGNATED AS HISTORIC DISTRICTS BY THE OFFICIAL CITY ZONING MAP.

The authority and jurisdiction conferred upon the City Planning Commission by Ordinance No. 915, as amended, with respect to historic districts and properties situated therein is hereby transferred to

and conferred upon and shall be exercised by, in its entirety, the Historic District Commission of the City of Eureka Springs, Arkansas, from and after the effective date of this Ordinance. This specifically includes, but is not limited to, the authority and jurisdiction to issue certificates of appropriateness, and with respect to certificates of appropriateness, the procedure for the issuance of the same provided by Section 6 of this Ordinance shall fully apply. Control over all historic districts shown by the official Zoning Map of the City of Eureka Springs, Arkansas, which was adopted by Ordinance No. 1038 on July 8, 1978, shall be under the Historic District Commission on the effective date of this Ordinance and thereafter, insofar as the subject matter of this Ordinance is concerned.

SECTION 12. APPLICABILITY OF ORDINANCE NO. 997B.

The provisions of Ordinance No. 997B regulating signs located within historic districts of the City shall remain in full force and effect and shall continue to be administered and enforced by the Enforcing Officer thereof, provided that the Historic District Commission may, from time to time, propose amendments to said Ordinance No. 997B and may, from time to time, propose other ordinances pertaining to the style, material, size and location of outdoor advertising signs and bill posters within an historic district or historic districts.

SECTION 13. REPEAL.

All Minute Orders, Resolutions, Ordinances and parts thereof in conflict with this Ordinance are hereby repealed, subject to the provisions of Section 11 of this Ordinance.

SECTION 14. SEVERABILITY.

Each word, phrase, sentence, paragraph and section of this Ordinance is hereby declared to be severable from each and every other word, phrase, sentence, paragraph and section hereof. Accordingly, should any part of this Ordinance be held unenforceable for any reason by a court of competent jurisdiction, the remaining parts of this Ordinance shall continue to be in full force and effect.

SECTION 15. EMERGENCY DECLARED.

The City Council has found that the establishment of a Historic District Commission of and for the City of Eureka Springs, Arkansas, is long overdue and that the provisions of this Ordinance should be implemented without delay. Accordingly, an emergency is declared to exist and this Ordinance shall be in full force and effect upon its publication according to law.

PASSED AND ORDAINED, WITH SECTION 15 PASSED SEPARATELY, BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, ON THIS ~~14~~²⁰TH DAY OF OCTOBER, 1978.

APPROVED:



Charles F. Robertson, Mayor

ATTEST:


June I. Moncravie, City Clerk-Treasurer

(SEAL OF THE CITY)