

ORDINANCE NO. 1054

AN ORDINANCE REPEALING ORDINANCE NO. 871, AS AMENDED, ABOLISHING THE PLANNING COMMISSION CREATED BY ORDINANCE NO. 871, AS AMENDED, CONFIRMING AND RATIFYING ALL LAWFUL ACTIONS TAKEN BY THE PLANNING COMMISSION CREATED BY ORDINANCE NO. 871, AS AMENDED, CREATING A NEW PLANNING COMMISSION AND PROVIDING FOR ITS MEMBERSHIP, APPOINTMENT, ORGANIZATION, RULES, DUTIES, AND POWERS.

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

SECTION 1. Ordinance No. 871, as amended, repealed.

Ordinance No. 871, as amended, of the City of Eureka Springs, Arkansas, is hereby repealed in its entirety, and the Planning Commission created thereby is hereby abolished, provided, all official actions taken by said Planning Commission in substantial compliance with the law in effect at the time of such actions are hereby confirmed and ratified.

SECTION 2. New Planning Commission created.

There is hereby created a Planning Commission of the City of Eureka Springs, Arkansas, hereinafter referred to as "the Commission", and it is the intent of the City Council that the Commission shall immediately succeed and supersede the Planning Commission created by Ordinance No. 871, as amended.

(a) The Commission shall be composed of five (5) members, none of whom shall hold any other municipal office or appointment except membership in the Board of Adjustment or a joint planning agency.

(b) The members of the Commission shall be appointed by the Mayor, with the consent of a majority of the members elected to the City Council.

(c) The members of the Commission shall serve without compensation.

(d) Each member of the Commission must be a resident of the City of Eureka Springs, Arkansas, at the time of appointment and throughout the term of appointment.

(e) Each member of the Commission shall be appointed for a term of three (3) years, provided, the first members appointed to the Commission shall, at the first meeting of the Commission, determine, by lot, that two (2) members shall serve for three (3) years, two (2) members shall serve for two (2) years, and one (1) member shall serve for (1) year. Thereafter, all appointments to the Commission shall be for full terms of three (3) years, except for appointments to complete an unexpired term, which shall only be for the duration of the unexpired term.

(f) Members of the Commission may be reappointed to the Commission by the Mayor, with the consent of a majority of the members elected to the City Council, at the expiration of their respective terms of appointment.

(g) A member of the Commission may be removed therefrom by the Mayor, with the consent of a majority of the members elected to the City Council, upon a finding that such removal is in the best interest of the City of Eureka Springs, Arkansas..

SECTION 3. Quorum.

Three (3) members of the Commission shall constitute a quorum for the transaction of business, provided, no action shall be taken which is binding upon the Commission unless concurred in by not less than three (3) members of the Commission.

SECTION 4. Organization and rules.

At the first meeting of the Commission, its members shall designate one (1) of its members as chairman, and select a vice-chairman and such other officers as it may require. The terms of office of the chairman and other officers of the Commission shall be as provided by the rules of the Commission. Regular

meeting dates shall be established providing for at least one (1) regular meeting to be held in each calendar month. The Commission shall adopt rules and regulations for the discharge of its duties and the transaction of business, and shall keep a public record of all business, resolutions, transactions, findings and determinations.

SECTION 5. General purpose.

The general purpose of the Commission is to prepare or have prepared a plan or plans of the City of Eureka Springs, Arkansas, to receive and make recommendations on public and private proposals for development, to prepare and administer planning regulations, to prepare and transmit to the City Council recommended ordinances implementing plans, and to advise and counsel the City government and other public bodies. The Commission shall have the duty and function of promoting public interest in and understanding of long-term coordinated municipal planning.

SECTION 6. Powers and duties.

(a) The Commission shall prepare a work program and make comprehensive studies of the present conditions and the probable future growth of the City of Eureka Springs, Arkansas, and its neighboring territory.

(b) The Commission shall prepare and maintain a map showing the general location of streets, public ways and public property, and the boundaries of the area within the territorial jurisdiction for which it will prepare plans, ordinances and regulations. Such map shall be known as the Planning Area Map. Solely for the purpose of long-term coordinated municipal planning, the territorial jurisdiction for which the Commission will prepare plans shall be exclusive and shall include all land in the Western District of Carroll County, Arkansas, lying within five (5) miles of the corporate limits of the City of Eureka Springs, Arkansas. If said

corporate limits are separated by less than ten (10) miles from the corporate limits of any neighboring municipality of the first or second class, the limits of said territorial jurisdiction shall be a line equidistant between the corporate limits of the City of Eureka Springs, Arkansas, and the corporate limits of any such neighboring municipality. The Commission shall designate the area within the territorial jurisdiction for which it will prepare plans, ordinances, and regulations. However, pursuant to Act 379 of 1969, Acts of Arkansas, presently codified as Ark.Stat.Ann. §§19-2804.1, 19-2804.2 and 19-2804.3, it is hereby expressly recognized that the City of Eureka Springs, Arkansas, shall not fix or prescribe, nor attempt to fix or prescribe, directly or indirectly, any zoning control or zoning authority over the use of lands lying outside of its corporate limits, with the sole exception of territory lying along a navigable stream for a distance of five (5) miles of the corporate limits, in either direction, and for a distance of two (2) miles laterally from the thread of the stream. A description of the boundaries of the area so designated by the Commission shall be filed with the City Clerk-Treasurer and in the Western District Office of the Circuit Clerk and Ex-Officio Recorder of Carroll County, Arkansas.

(c) Following the preparation of the Planning Area Map, the Commission may prepare a plan or plans for all or any portion of the area encompassed by the Planning Area Map, which plan or plans may consist of maps, plats, charts, diagrams and necessary documents and descriptive matter. Such plan or plans may include but shall not be limited to: a master street plan; a land use plan; a community facilities plan. The Commission shall undertake

suitable studies related to the plan or plans to be prepared. Such studies shall be conducted after the completion of the Planning Area Map and prior to the preparation of the plan or plans.

(1) The Land Use Plan. The Commission may adopt a land use plan which may include but shall not be limited to the reservation of open spaces, the preservation of natural and historical features, sites and monuments, the existing uses to be retained without change, the existing uses proposed for change, and the areas proposed for new development. The land use plan may include areas proposed for redevelopment, rehabilitation, renewal, and similar programs.

(2) The Community Facilities Plan. The Commission may prepare and adopt a community facilities plan indicating the general location and extent of the service areas and the future requirements of community facilities, such as schools, playgrounds, recreational areas, hospitals, special education facilities, cultural facilities, governmental buildings and areas, public and private utility terminals and lines, and transportation terminals and lines. The community facilities plan may indicate areas to be reserved for future acquisition, as hereinafter provided in this Ordinance.

(3) The Master Street Plan. The Commission may prepare and adopt a master street plan which shall designate the general location, characteristics and functions of streets and highways. The plan shall include the general location of streets and highways to be reserved for future public acquisition; it may provide for the removal, relocation, widening, narrowing, vacating, abandonment, and change of use or extension of any public ways.

(4) Other plans may be adopted. The Commission may prepare and adopt such other plan or plans as are significant to the health, safety and general welfare of the City of Eureka Springs, Arkansas, and its environs.

(d) Implementation of plans. Following the adoption and filing of any plan or plans the Commission may prepare and transmit to the City Council, for enactment, recommended ordinances and regulations which will carry out or protect the various elements of the plan or plans, in order to promote, regulate and control development.

(e) After adoption and filing of a plan or plans, no public way, ground, or open space, public building or structure, publicly or privately owned public utility line or terminal, public development or redevelopment or renewal project shall be acquired, constructed or authorized unless such a project, proposal or development has been submitted to the Commission for review, recommendation and approval as to its conformity with the plan or plans. The disapproval by the Commission of a proposal submitted to it may be overruled only by a recorded vote of two-thirds (2/3) of the full membership of the submitting or authorizing body. Failure of the Commission to act within sixty (60) days of the submission of the proposal shall be deemed approval, unless further time is allowed by the submitting public board, commission or body.

(f) After adoption and filing of a community facilities plan or a master street plan, no parcel of land indicated by the plan or plans which lies within the bounds of a proposed public use facility or mapped street shall be privately developed until the public board, commission or body having jurisdiction or financial responsibility for the reserved area shall have refused to execute a written

option to file suit for condemnation to acquire said area. Such refusal shall be given by the public board, commission or body within one (1) year of the date such action is requested by the property owner. The above procedure may be enforced for the specified one (1) year period by the refusal to issue building permits or by other methods. This procedure may be enforced only in cases where regulations governing the development and subdivision of land do not apply.

(g) The Commission may prepare annually a program for an appropriate period, recommending a coordinated program of capital expenditures for public improvements. For the purpose of preparing this program the Commission may request and receive information concerning public improvements from all public officials and bodies.

(h) The Commission may make recommendations and reports to the public and to public and private agencies.

(i) The Commission may enter upon land to make examinations and surveys, and to maintain necessary monuments and markers thereon.

(j) The Commission may receive and spend funds from federal, state, county, municipal and other public and private sources, and may contract with respect thereto, and, subject to the existing availability of funds, may hire a staff and contract for consultant services.

SECTION 7. Procedure for the adoption of plans and ordinances.

All plans, recommended ordinances and regulations shall be adopted through the following procedure:

(a) The Commission shall hold a public hearing on a plan or plans, ordinances and regulations proposed under this Ordinance. Notice of the public hearing shall be published in a newspaper of general circulation in the City of Eureka Springs, Arkansas, at least one (1) time fifteen (15) days prior to the hearing.

(b) Following public hearing proposed plans may be adopted and proposed ordinances and regulations may be recommended as presented or in modified form by a majority vote of the entire Commission.

(c) Following its adoption of a plan or plans and recommendation of ordinances and regulations, the Commission shall certify such adopted plan or plans or recommended ordinances and regulations to the City Council for its adoption.

(d) The City Council may return the plan or plans and recommended ordinances and regulations to the Commission for further study or re-certification, or, by a majority vote of the entire membership, may by ordinance or resolution adopt plans and recommended ordinances and regulations submitted by the Commission. However, nothing in this Ordinance shall be construed to limit the authority of the City Council to recall the said ordinances and resolutions by a vote of a majority of the City Council.

(e) Following adoption by the City Council, the adopted plans, ordinances and regulations shall be filed in the office of the City Clerk-Treasurer. The City Clerk-Treasurer shall file, in the Western District Office of the Circuit Clerk and Ex-Officio Recorder of Carroll County, Arkansas, such plans, ordinances and regulations as pertain to the territory beyond the corporate limits of the City of Eureka Springs, Arkansas.

SECTION 8. Procedure for amendments.

After adoption of plans and ordinances and regulations, and proper filing in the offices of the City Clerk-Treasurer and the Circuit Clerk and Ex-Officio Recorder of Carroll County, Arkansas, no alteration, amendment, extension, abridgement or discontinuance of the plans or ordinances may be made except in conformance with the procedure set forth in Section 7 of this Ordinance.

SECTION 9. Existing ordinances, plan and filed boundary descriptions unaffected.

The following ordinances, plan and filed boundary descriptions of the City of Eureka Springs, Arkansas, are hereby declared to be unaffected by the adoption of this Ordinance:

(a) Ordinance No. 915, adopting a zoning ordinance, as amended.

(b) Ordinance No. 943, adopting subdivision regulations, as amended by Ordinance No. 1036.

(c) Ordinance NO. 997B, adopting comprehensive sign regulations.

(d) Ordinance No. 1012, adopting comprehensive mobile home and mobile home park regulations.

(e) Ordinance No. 1038, adopting the Zoning Map of the City of Eureka Springs, Arkansas, on July 8, 1978, as amended to date.

(f) Ordinance No. 1047, creating the Historic District Commission.

(g) The plan, evolving from a planning process undertaken by the Planning Commission created by Ordinance No. 871, as amended, and the City Council, with technical assistance provided by Harbin Design Group, consisting of thirty-eight (38) pages of textual material and two (2) pages of maps, adopted by the City Council in 1978.

(h) A description of the boundaries of the area designated by the Planning Commission created by Ordinance 871, as amended, for which said Commission has prepared or could have prepared plans, ordinances and regulations, provided, said description, if any, has heretofore been filed with the City Clerk-Treasurer and in the Western District Office of the Circuit Clerk and Ex-Officio Recorder of Carroll County, Arkansas.

SECTION 10. Repeal.

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 11. Severability.

If any part of this Ordinance is held to be unenforceable by a court of competent jurisdiction, such holding shall not affect the remaining parts of this Ordinance, which shall continue to be in full force and effect. To that end, each part of this Ordinance is hereby declared to be severable from each and every other part of this Ordinance.

SECTION 12. Emergency declared.

The City Council has found that great confusion exists with respect to the function, powers and duties of the Planning Commission created by Ordinance No. 871, as amended, and that Ordinance No. 1054, being in strict compliance with enabling legislation of the General Assembly of the State of Arkansas, should take full effect without delay. Therefore, in order to protect and preserve the public health, safety, peace and general welfare, and emergency is declared to exist and Ordinance No. 1054 shall take full effect upon its passage, approval and publication according to law.

PASSED AND ORDAINED, WITH AN EMERGENCY DECLARED SEPARATELY, BY THE CITY COUNCIL OF EUREKA SPRINGS, ARKANSAS, ON THIS 5TH DAY OF JANUARY, 1979.

APPROVED:

Marcile Davis
Marcile Davis, Mayor

ATTEST:

Vesta Johnson
Vesta Johnson, City Clerk-Treasurer

(SEAL OF THE CITY)

This Ordinance Was Prepared By:

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