

ORDINANCE NO. 1090

AN ORDINANCE AMENDING CHAPTER 11.16, EUREKA SPRINGS MUNICIPAL CODE, ADOPTING THE STANDARD FIRE PREVENTION CODE, 1976 EDITION, AS AMENDED, OF THE SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL, INC., ADOPTING THE FIRE PREVENTION CODE (1975 EDITION), AS AMENDED, OF THE NATIONAL FIRE PROTECTION ASSOCIATION, AND DECLARING AN EMERGENCY.

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

Section 1. Chapter 11.16, Eureka Springs Municipal Code, amended.

Chapter 11.16, Eureka Springs Municipal Code, is hereby amended to read, in its entirety, as follows, to-wit:

(PLEASE GO ON TO THE NEXT PAGE)

Chapter 11.16

FIRE PREVENTION CODES

Sections:

- 11.16.01 Adoption
- 11.16.02 Definitions
- 11.16.03 Exceptions, Deletions and Modifications
- 11.16.04 Appeals
- 11.16.05 Violations and Penalties

11.16.01 Adoption. There is hereby adopted that certain code known as the Standard Fire Prevention Code, 1976 Edition, as amended, of the Southern Building Code Congress International, Inc., and that certain code known as the Fire Prevention Code (1975 Edition), as amended, of the National Fire Protection Association, subject to the exceptions, deletions and modifications hereinafter provided for in Section 11.16.03 of this Chapter. Not less than three (3) copies of each said fire prevention code shall be filed and maintained in the office of the Clerk/Treasurer, and said fire prevention codes are hereby adopted and incorporated by reference as fully as if set out herein verbatim, and the provisions of said fire prevention codes shall be controlling within the corporate limits of the City.

11.16.02 Definitions. The following terms appearing in said fire prevention codes are hereby defined as follows, to-wit:

- (a) "Building Official" means the Building Inspector of the City.
- (b) "Fire Authority" means the City Council of the City.
- (c) "Fire District" means the Fire District declared and established by Section 11.04.06 of this Code.
- (d) "Fire Official" and "Enforcement Official" mean the Chief of the Fire Department of the City.
- (e) "Fire Prevention Bureau" means the Fire Department of the City.
- (f) "Law Enforcement Department" means the Police Department of the City.

11.16.03 Exceptions, Deletions and Modifications. The following exceptions, deletions and modifications are hereby declared, to-wit:

- (a) Chapter 2 of the said Standard Fire Prevention Code, 1976 Edition, as amended, which provides for a Board of Appeals and Adjustments, and any similar provision in the said Fire Prevention

Code (1975 Edition), as amended, are hereby excepted and deleted from the adoption and incorporation by this Chapter in Section 11.16.01. Any provision appearing elsewhere in either said fire prevention code which refers to a Board of Appeals and Adjustments or some similar agency or body shall be deemed to be modified accordingly. The provision for appeals is set forth hereinbelow in Section 11.16.04 of this Chapter.

(b) Any conflict between any restrictive provision in this Code and any similar or corresponding restrictive provision in either said fire prevention code shall be resolved in favor of the more restrictive provision which provides the greater preservation of the public health, safety and welfare. By way of example, any conflict between Chapter 7.24 of this Code and Chapter 20, Division II, of the said Standard Fire Prevention Code, 1976 Edition, each of which is concerned with bulk storage of flammable and combustible liquids, shall be resolved in favor of Chapter 7.24 of this Code, which contains the more restrictive provisions. However, where there is no conflict, similar or corresponding provisions of this Code and of either or both said fire prevention code(s) shall be deemed to be co-existent and complimentary to one another.

11.16.04 Appeals. Every decision of the Chief of the Fire Department of the City shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. Every decision shall be in writing and promptly filed in the Office of the Chief of the Fire Department of the City, and shall be open to public inspection.

11.16.05 Violations and Penalties. (a) Any person who shall violate any of the controlling provisions of either said fire prevention codes adopted by Section 11.16.01 of this Chapter or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build or construct in violation of any detailed statement or specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, or who shall fail to comply with any order entered with respect thereto by a court of competent jurisdiction within the time fixed therein, shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and adjudged to pay a fine of not more than five hundred dollars (\$500), and if the offending act or omission is continuous, not more than two hundred fifty dollars (\$250) for each day of continuance. The adjudication of one fine for any offending act or omission shall not excuse the offending act or omission nor permit it to continue. All such persons shall be required to correct or remedy such offending acts or omissions or defects within a reasonable time.

(b) The adjudication of any fine pursuant to subsection (a) shall not be held to preclude the enforced elimination of the offending act, omission or defect.

Section 2. Severability.

If any part of this Ordinance or any part of either fire prevention code adopted pursuant to this Ordinance is held to be unenforceable by a court of competent jurisdiction, such holding shall affect only the part or parts set forth in such holding, and the remaining parts of this Ordinance and of the fire prevention codes adopted pursuant to this Ordinance shall continue to be in full force and effect.

Section 3. Emergency declared.

The City Council has found that the City is in dire need of regulations consistent with nationally recognized practices for the reasonable protection of life and property from the hazards of fire and explosion due to storage, use or handling of hazardous materials, substances and devices, and to minimize hazards to life and property due to fire and panic, exclusive of those hazards considered in building code regulations, setting forth rules and regulations to improve public safety by promoting the control of fire hazards, regulating the installation, use and maintenance of equipment, regulating the use of structures, premises and open areas in the City, providing for the abatement of fire hazards, establishing the responsibilities and procedures for enforcement, setting forth standards for compliance, and providing penalties for the violation thereof. The City Council has further found that Chapter 11.16, Eureka Springs Municipal Code, does not presently provide the regulations necessary to protect and promote the public health, safety and welfare and that the regulations presently provided thereby are lacking in numerous respects. Therefore, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect upon its passage, approval and publication as provided by law.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, WITH SECTION 3 BEING PASSED SEPARATELY, ON THIS 4TH DAY OF APRIL, 1980.

APPROVED:

  
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Marcile Davis, Mayor

ATTEST:

  
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John J. (Jack) Muzio, Jr., Clerk/Treasurer

(SEAL OF THE CITY)