

ORDINANCE NO. 1111

AN ORDINANCE ESTABLISHING CHAPTER 12.04, EUREKA SPRINGS MUNICIPAL CODE,
ESTABLISHING A PUBLIC PARKS COMMISSION PURSUANT TO ACT 486 OF 1965,
ACTS OF ARKANSAS, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES.

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

Section 1. Chapter 12.04, Eureka Springs Municipal Code, established.

Chapter 12.04, Eureka Springs Municipal Code, is hereby established to
read in its entirety as follows, to-wit:

(PLEASE GO ON TO NEXT PAGE)

Title 12

PARKS AND RECREATION

Chapter:

- 12.04 Parks Commission
- 12.08 Water Street Park

Chapter 12.04

PARKS COMMISSION

Sections:

- 12.04.01 Definitions
- 12.04.02 Parks Commission established
- 12.04.03 Purposes of Parks Commission
- 12.04.04 Revenue and refunding bonds
- 12.04.05 Authority to borrow from federal government
- 12.04.06 Condemnation proceedings
- 12.04.07 Applicability of Titles 11, 13 and 14, Eureka Springs Municipal Code
- 12.04.01 Definitions. Whenever used or referred to in this Chapter unless

a different meaning clearly appears from the context:

(a) "Governing body" means the Parks Commission established by Section 12.04.02.

(b) "Municipality" means the City of Eureka Springs, Arkansas.

(c) "Equip" means to install or place in or on any building or structure, equipment of any and every kind, whether or not affixed, including, without limitation, building service equipment, fixtures, heating equipment, air conditioning equipment, machinery, furniture, furnishings, and personal property of every kind.

(d) "Sell" means to sell for such price, in such manner and upon such terms as the municipality shall determine, including, without limitation, public or private sale, and if public pursuant to such advertisement as the municipality shall determine, sell for cash or credit, payable in lump sum or in installments over such period as the municipality shall determine, and if on credit with or without interest and at such rate or rates, not exceeding six percent (6%) per annum, as the municipality shall determine.

(e) "Lease" means to lease for such rentals, for such period or periods and upon such terms and conditions as the municipality shall determine, including, without limitation, the granting of such renewal or extension options for such rentals, for such period or periods and upon such terms and conditions as the municipality shall determine and the granting of such purchase options for such prices and upon such terms and conditions as the municipality shall determine.

(f) "Facilities" means any real property, personal property or mixed property of any and every kind that can be used or that will be useful in developing and providing public parks and facilities under this Chapter, including, without limitation, rights-of-way, roads, streets, pipes, pipelines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, instrumentalities,

and other real, personal or mixed property of every kind.

12.04.02 Parks Commission established. There is hereby established a Parks Commission for the City of Eureka Springs, Arkansas, hereinafter referred to as "the Commission:", to acquire, construct, reconstruct, extend, equip, improve, and operate any project under Act 486 of 1965, Acts of Arkansas, as amended from time to time by the General Assembly of the State of Arkansas. The Commission shall have full and complete authority with respect to the project and its operation and with respect to the collection and disposition of revenues derived from the operation of the project. The Commission shall consist of () members. Of the initial members of the Commission, one-third (1/3) shall serve for a term of one (1) year, one-third (1/3) shall serve for a term of two (2) years, and one-third (1/3) shall serve for a term of three (3) years. Members of the Commission may be removed only for cause. The original members of the Commission shall be named by the City Council of the City of Eureka Springs, Arkansas, by resolution. Thereafter, each successor member, including a member appointed to fill the unexpired term of an existing member, shall be filled by appointment on the basis of a person selected by the remaining members of the Commission and reported to the City Council of the City of Eureka Springs, Arkansas, for consideration, which may approve or reject the nominee. Each member of the Commission shall take and file with the Clerk/Treasurer an oath of office. In order to be eligible for membership on the Commission, a person need only be a qualified elector at the time of original appointment and need not reside within the City of Eureka Springs, Arkansas. The members of the Commission shall receive no compensation for their service, but shall employ such agents, servants and employees and compensate them upon such terms as shall be necessary in order to effectively carry out the purposes of Act 486 of 1965, Acts of Arkansas, as amended from time to time by the General Assembly of the State of Arkansas. In this regard, the Commission shall have full and complete authority to do any and every act and to take any and every action necessary to carry out said purposes, including without limitation, the authority to contract and the authority to prescribe rates and charges and to enter into necessary rental and lease agreements but only the City Council of the City of Eureka Springs, Arkansas, shall have the authority to issue revenue bonds or to in any way pledge, obligate or create a lien upon the project or any of the revenues derived therefrom. The term of each replacement member shall be for three (3) years.

12.04.03 Purposes of Parks Commission. The purposes of the Commission are to acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in or dispose of any land, buildings, improvements or facilities of any and every nature whatever necessary or desirable for the developing and providing of public parks and facilities within or near the City of Eureka Springs, Arkansas, including, without limitation, recreation and cultural needs of the inhabitants of the City of Eureka Springs, Arkansas, and to stimulate and encourage the economic growth of the City of Eureka Springs, Arkansas, and its inhabitants (with each such undertaking by the Commission hereunder sometimes referred to herein as a "project").

10.04.04 Revenue and refunding bonds. The provisions of Sections 2, 3, 4, 5, 6, 7, 8, and 9, inclusive, of Act 486 of 1965, Acts of Arkansas, as amended from time to time by the General Assembly of the State of Arkansas, presently codified as Arkansas Statutes Annotated Sections 19-3632, 19-3634, 19-3635, 19-3636, 19-3637, 19-3638 and 19-3639 (1980 Replacement Volume), are hereby incorporated by reference into this Chapter, verbatim, subject to the limitation provided by Section 12.04.02.

12.04.05 Authority to borrow from federal government. The provisions of Section 10 of Act 486 of 1965, Acts of Arkansas, as amended from time to time by the General Assembly of the State of Arkansas, presently codified as Arkansas Statutes Annotated Section 19-3640 (1980 Replacement Volume), is hereby incorporated by reference into this Chapter, verbatim, subject to the limitation provided by Section 12.04.02.

12.04.06 Condemnation proceedings. The provisions of Sections 11 and 14 of Act 486 of 1965, Acts of Arkansas, as amended from time to time by the General Assembly of the State of Arkansas, presently codified as Arkansas Statutes Annotated Sections 19-3641 and 19-3644 (1980 Replacement Volume), are hereby incorporated by reference into this Chapter, verbatim.

12.04.07 Applicability of Titles 11, 13 and 14, Eureka Springs Municipal Code. The Commission and each of its projects shall at all times be subject to the applicable provisions of Title 11 (Building and Construction), Title 13 (Planning) and Title 14 (Zoning). In this regard, the Commission shall be subject to the respective jurisdictions of the Building Inspector, the Historic District Commission, the Planning Commission and the Board of Zoning Adjustment of and for the City of Eureka Springs, Arkansas, wherever and whenever applicable.

Section 2. Severability

If any part of this Ordinance is held to be unenforceable for any reason by a court of competent jurisdiction, such holding shall not affect the remaining parts of this Ordinance, which shall remain in full force and effect.

Section 3. Emergency declared

The City Council of the City of Eureka Springs, Arkansas, hereby finds that the establishment of a Parks Commission for the City of Eureka Springs, Arkansas, for the accomplishment of the purposes of Act 486 of 1965, Acts of Arkansas, as amended from time to time by the General Assembly of the State of Arkansas, presently codified as Arkansas Statutes Annotated Sections 19-3631 through 19-3645, inclusive (1980 Replacement Volume), is essential to the public health, safety and welfare. Therefore, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, WITH SECTION 3 BEING PASSED SEPARATELY, ON THIS 19TH DAY OF DECEMBER, 1980.

APPROVED:



Marcile Davis, Mayor

ATTEST:



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

(SEAL OF THE CITY)

