

ORDINANCE NO. 1137

AN ORDINANCE AMENDING SECTION 5-18, ZONING ORDINANCE FOR EUREKA SPRINGS, ARKANSAS, TRANSFERRING AUTHORITY FOR GRANTING OR DENYING CERTIFICATES OF APPROVAL TO CLEAR LAND FROM THE BOARD OF ZONING ADJUSTMENT TO THE PLANNING COMMISSION AND PROVIDING FOR NEW PROCEDURES FOR THE ISSUANCE OF CERTIFICATES OF APPROVAL TO CLEAR LAND.

WHEREAS, a public hearing was held to consider the following amendments to the Zoning Ordinance for Eureka Springs, Arkansas and the Planning Commission and the Board of Zoning Adjustment having recommended their adoption, all in accordance with Section 8-4 of said Ordinance; therefore,

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

SECTION 1:

Section 5-18, Zoning Ordinance for Eureka Springs, Arkansas, amended.

Section 5-18, Zoning Ordinance for Eureka Springs, Arkansas, as codified and adopted by reference in Section 14.04.01, Eureka Springs Municipal Code, is hereby amended to read in its entirety as follows:

5-18 Preservation of Trees

(a) It shall be unlawful for any person to clear land within the corporate limits of the City without first obtaining a "Certificate of Approval to Clear Land" from either the City Building Inspector or the Planning Commission, as provided in this Ordinance.

(b) The terms "clear land" or "clearing land" shall mean the removal or destruction of any living tree or woody perennial plant with a base diameter of four (4) inches or more as measured one and one-half (1½) feet about ground level.

(c) Prior to clearing land, the owner, tenant, developer or person actually clearing the land shall submit an application on the prescribed form for a "Certificate of Approval to Clear Land" to the Building Inspector and no clearing shall be undertaken until either the Building Inspector or the Planning Commission has granted the Certificate or approved the application.

(d) The application, in addition to all requested information, shall contain a plan or diagram locating all living trees or woody perennial plants with a base diameter of four (4) inches or more as measured one and one-half (1½) feet above ground level. The plan or diagram shall indicate which trees or plants are proposed for removal or destruction.

(e) Upon submission of a completed application with

the required plan or diagram, the Building Inspector shall visit and inspect the site.

(f) The Building Inspector, after reviewing the application, the plan or diagram, and visiting and inspecting the site, shall approve the application and issue a Certificate providing the following conditions are met:

1-In the commercial and residential zones, all existing healthy trees or plants shall be maintained and preserved within the required set-back lines of the front, side and rear yards, except for ingress and egress drives;

2-No more than thirty percent (30%) of the trees or a maximum of ten (10) trees with a base diameter of four (4) inches or more as measured one and one-half (1½) feet above ground level are to be removed;

3-No antique tree (being a tree fifty (50) years of age or more) or tree of significant historical or aesthetic value is to be removed;

4-No tree with a base diameter of thirty-six (36) inches measured four and one-half (4½) feet above ground level is to be removed. Should any completed application not comply with the stated restrictions, the Building Inspector shall not issue a Certificate and the application shall be referred to the Planning Commission for placement on the agenda of the next regularly scheduled meeting along with a written statement by the Building Inspector of the reasons for denial of the issuance of the Certificate; and

5-The foregoing conditions (1-4) may be waived for any tree that is hazardous to any building, sidewalk, driveway or public street if in the opinion of the Building Inspector or the Chairman of the Planning Commission an emergency exists.

(g) The Planning Commission and Building Inspector shall consider environmental, aesthetic, and historical factors. To that end, the Planning Commission shall adopt as part of its rules and regulations criteria to be utilized in making the decision. The Planning Commission shall have the authority to prohibit the clearing of any land or to impose conditions or restrictions on any application submitted to the Planning Commission for a Certificate of Approval to Clear Land to insure compliance with this section or to preserve environmental, aesthetic, or historical characteristics of the land or to protect adjacent property.

(h) In its discretion, the Planning Commission may require that the applicant comply with the notice requirements of Section 8-2 of this Zoning Ordinance.

SECTION 2:

Section 2, Zoning Ordinance for Eureka Springs, Arkansas, amended.

Section 2, Zoning Ordinance For Eureka Springs, Arkansas, as codified and adopted by reference in Section 14.04.01, Eureka Springs Municipal Code, is hereby amended by deletion of the definition of "clearing".

SECTION 3:

Section 7-4.4, Zoning Ordinance for Eureka Springs, Arkansas, amended.

Section 7-4.4, Zoning Ordinance for Eureka Springs, Arkansas, as codified and adopted by reference in Section 14.04.01, Eureka Springs Municipal Code, is hereby amended by deletion of the clause "or review plans for clearing land within the purview of Section 5-18" in the first sentence of the section.

SECTION 4:

Section 8-1, Zoning Ordinance for Eureka Springs, Arkansas, amended.

Section 8-1, Zoning Ordinance for Eureka Springs, Arkansas, as codified and adopted by reference in Section 14.01.01, Eureka Springs Municipal Code, is hereby amended by addition of the clauses "or clear land" and "or Certificate of Approval to Clear Land" in the last sentence of the section.

SECTION 5:

Section 7-4, Zoning Ordinance for Eureka Springs, Arkansas, as codified and adopted by reference in Section 14.01.01, Eureka Springs Municipal Code is hereby amended by deletion of the existing subsection 7-4.3 of said Zoning Ordinance and renumbering the existing subsection 7-4.4 to subsection 7-4.3.

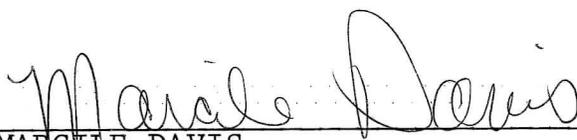
SECTION 6.

Severability.

If any part of this ordinance shall be held unenforceable by a court of competent jurisdiction, the remaining parts shall be deemed severable and shall remain in full force and effect.

PASSED AND ORDAINED BY THE CITY COUNCIL
OF THE CITY OF EUREKA SPRINGS, ARKANSAS,
ON THIS 9th DAY OF February, 1982.

APPROVED:


MARCILE DAVIS
Mayor

ATTEST:


TRUIE WALSH
City Clerk-Treasurer