

AN ORDINANCE AMENDING SECTION 4,
ARTICLE III, CHAPTER 10.10,
EUREKA SPRINGS MUNICIPAL CODE

WHEREAS, it is necessary for the City of Eureka Springs, Arkansas to amend Section 4, Article III, Chapter 10.10 of its municipal code to clarify the distance a property owner must traverse at his expense in order to hook up to the sewer system and what methods are to be utilized if the owner refuses to comply after being given official notice to hook on to the sewer system.

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

Section 1. Section 4, Article II, Chapter 10.10 of the Eureka Springs, Arkansas Municipal Code is hereby amended to read as follows:

Section 4. The owner(s) of all houses, building or properties used for human occupancy, employment, recreation or other purposes situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property.

a. (1) If the owner of the property shall fail, neglect, or refuse to connect the sewer as ordered in this ordinance, within the time prescribed in the official notice, unless further time is granted by the superintendant, it shall be the duty of the Superintendant to cause the sewer to be constructed, by contract or otherwise, in as economic and substantial a manner as may be practicable.

(2) For that purpose, the Superintendant is authorized to enter upon, by his/her agents, contractors, and employees, any property on which he/she may order a sewer to be constructed, doing as little damage as possible.

b. (1) When the construction shall have been completed and the cost ascertained, it shall become a charge and lien upon the property.

(2) (A) The Superintendant is authorized and empowered to institute suit in the name of the City in any court having jurisdiction to enforce liens against real property, in the manner designated by A.C.A. 14-90-1002 for the commencement of suits by the board of improvement, for the purpose to making the property chargeable for the lien provided in this section and the amount of the construction of the sewer, together with twenty percent (20%) penalty for noncompliance with the order to the superintendant.

(B) (i) When a decree shall have been obtained, the property shall be ordered sold in the manner provided in A.C.A. 14-90-1101 - 14-90-1108 and 14-90-1201 - 14-90-1204 for the sale of the property.

(ii) All appeals from decrees to the Supreme Court of Arkansas rendered against property under this section shall be prosecuted within the time and under the restrictions and limitations set forth in this ordinance and any applicable Arkansas statute, and no injunction shall be issued by any court restraining the building of any sewer ordered by the Superintendant.

(c) (1) All notices and summons required in this section shall be served in the manner provided in A.C.A. 14-90-1003, against resident as well as nonresident owners of property; and

(2) (A) The court shall be open, as stated in A.C.A. 14-90-1001;

(B) The same preference shall be given to suits commenced under this section; and

(C) The same summary mode of proceeding shall be adopted in pleading and in all matters relating to the enforcement of the lien. (A.C.A. 14-235-303)

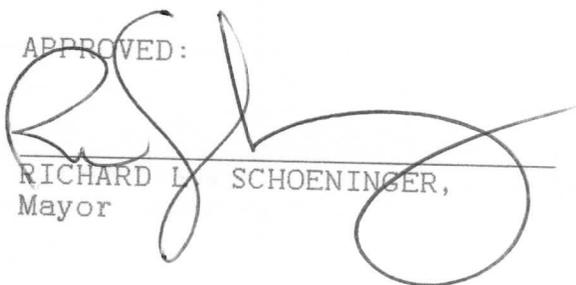
Section 2. The provisions of this Ordinance are severable and if a section, phrase or provision shall be declared invalid, such declaration shall not effect the validity of the remainder of the Ordinance.

Section 3. All Ordinances and Resolutions and parts thereof, in conflict herewith, are hereby repealed to the extent of such conflict.

Section 4. It has been determined that this Ordinance is necessary and vital to the orderly operation of the City of Eureka Springs in meeting in obligations under the Consent Order signed by the City to provide sewage disposal service to its citizens and therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS THIS 1st DAY OF August, 1989.

APPROVED:



RICHARD L. SCHOENINGER,
Mayor

ATTEST:


JUANITA S. BARNER,
City Clerk