

ORDINANCE #1524 (Amended)

AN ORDINANCE LEASING A PORTION OF ROCKHOUSE STREET
AND BENTON STREET BY THE CITY OF EUREKA SPRINGS, AR
FOR A PERIOD OF 25 YEARS

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

SECTION 1. PURPOSE. The leasing of a portion of Rockhouse Street and Benton Street between Block 102 and Block 103 and Northwest of Block 102 to John White and Marie White, husband and wife, their heirs and assigns (hereafter called Lessees) for \$10,000.00 and other good and valuable consideration.

SECTION 2. LEGAL DESCRIPTION. The property which is hereby leased to Lessees is described as follows:
Commencing at the Easternmost corner of Lot 1, Block 102; thence N 39 13' 12" W following the lot line 47.25 feet to the point of real beginning; thence following the block line N 39 13' 12" 56.68 feet; thence N 78 57' 52" W 20.10 feet; thence S 38 02' 37" W 52.54 feet to a point on the South right-of-way line of Benton Street; thence N 40 00' 00" W to a bluff; thence in a Northeasterly direction following the bluff line into the intersection of Benton Street and Rockhouse Street to a point where the bluff intersects with the block wall of the property leased to Gretchen Jasper; thence following the block wall to the East right-of-way line of Rockhouse Street; thence in a Southeasterly direction following the right-of-way line to a point which is located N 39 13' 12" W 30 feet of the intersection of Rockhouse Street with Main Street; thence S 44 22' 34" W 30 feet to the point of real beginning. Also included in the property being leased by the City is the cave area in the bluff which lies under Benton Street and/or Rockhouse Street. This lease does not include any part of Benton Street and/or Rockhouse Street which lies above the bluff line or the Gretchen Jasper wall. This description specifically excludes any real property previously leased by the City to Gretchen Jasper on July 9, 1982.

The City of Eureka Springs reserves from this lease an easement for utilities which may be necessary for the City to install or maintain during the period of the lease.

SECTION 3. TERM: The term of the lease shall be for 25 years from the date of this ordinance.

SECTION 4. CONSIDERATION. Lessees shall pay to the City of Eureka Springs the sum of \$10,000, \$1,000.00 upon publication of this Ordinance and the balance on or before September 1, 1993, or this Ordinance shall be null and void.

SECTION 5. CONDITIONS: (a) Lessees shall charge no admission fee or other charge of any kind for access by the general public to the cave or area which is the subject of this lease.

(b) Within one year, Lessees shall restore, maintain and preserve the cave area at their sole expense.

(c) Public access to the leased area shall not be denied by the Lessees during normal business hours except when restoration, maintenance or preservation work may require exclusion of such visitors. The steps leading from Main Street to Benton Street shall remain open 24 hours a day except when maintenance is being performed.

(d) No permanent structures other than stairways shall be constructed without permission by the City of Eureka Springs.

(e) No merchandise shall be displayed or sold on the leased land.

(f) Lease will not be sublet or assigned by leasee without prior consent of the City of Eureka Springs.

Breach of any of the above stated conditions shall, upon a finding of such breach by a court of competent jurisdiction, result in the termination of the rights and privileges granted Lessees under this ordinance.

SECTION 6. REPEAL. All other ordinances and resolution or parts thereof in conflict, wholly or in part, with any provision of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7. SEVERABILITY. The provisions of this Ordinance are hereby declared to be severable. If any provision shall be held to be invalid or inapplicable to any persons or circumstances, such invalidity or inapplicability shall not affect the remainder of the provisions of this Ordinance.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS ON THIS 13th DAY OF JULY, 1993.

APPROVED:

ATTEST:



RANDY WOLFINBARGER, Mayor



City Clerk/Treasurer