

ORDINANCE NO. 943

AN ORDINANCE REGULATING THE SUBDIVISION OF LAND WITHIN THE AREA REGULATED BY THE CITY OF EUREKA SPRINGS, ARKANSAS; PRESCRIBING THE PROCEDURE FOR OBTAINING APPROVAL OF A PROPOSED SUBDIVISION AND OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

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

SECTION 1. DEFINITIONS.

1.1 General. For the purpose of this Ordinance, words of the present tense include the future tense; words in the singular include the plural numbers; words in the plural include the singular number; and the word "shall" is mandatory and not directive.

1.2 General Use Plan. The comprehensive use plan prepared and adopted by the Planning Commission and accepted by Ordinance or Resolution by the City Council, indicating the general locations recommended for the various land uses, major streets, collector streets, parks, public buildings, and other public improvements.

1.3 Development and Subdivision of Land. The extension or provision of utilities, the subdividing of land into lots and blocks, the parceling of land for non-agricultural purposes, and the dedication of rights-of-way and easements.

1.4 Plat. A map or drawing and supporting material indicating the layout and design of a proposed subdivision containing all necessary information to transfer, locate and survey all property therein, for the consideration and approval by the Planning Commission.

1.5 Subdivision. The division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development. However, a division of land for agricultural purposes into lots or parcels of five acres or more, and not involving a new street, shall not be considered a subdivision.

1.6 Subdivider. Any person, individual, firm, partnership, association, corporation, estate or trust, or any other group or combination of persons acting as a unit who may desire to develop land within the purpose and intent of these regulations.

1.7 Improvements. Street grading and surfacing, curbs and gutters, water mains and lines, sanitary and storm sewers, culverts and bridges, and other utilities and related items.

1.8 Building line. A line parallel to the street right-of-way, indicating the limit beyond which no part of any building or other structure may be erected.

1.9 Lot. A portion of a subdivision, or any parcel of land intended as a unit of transfer of ownership or a unit for development.

1.10 Street. A dedicated public right-of-way for vehicular and pedestrian traffic.

1.11 Easement. A grant by a property owner to the public, a corporation, or persons of the use of a strip of land for specific purposes.

1.12 City. The City of Eureka Springs, Carroll County, Arkansas.

SECTION 2. ESTABLISHMENT OF SUBDIVISION REGULATIONS.

2.1 Purpose. This Ordinance is adopted to establish regulations, procedures, requirements, and minimum standards to govern the subdivision and development of land which may now be included within the land use jurisdiction of the City to facilitate and assure adequate provisions for transportation, water, sewerage, schools, parks, playgrounds, fire protection, public utilities, and any other facility required for the use of residential, commercial or industrial users.

2.2 Authority. These subdivision regulations are adopted in accordance with the authority granted by Act 186 of the 1957 General Assembly of the State of Arkansas, as amended.

SECTION 3. PROCEDURAL REQUIREMENTS.

3.1 Application and Sketch Plan. A subdivider who desires to develop land subject to regulation by the provisions of this Ordinance shall

submit to the secretary of the Planning Commission two copies of a letter of intent and two copies of a sketch plan of the land sought to be subdivided, which shall be prepared by a registered surveyor or a registered engineer of the subdivider's choice, with the sketch plan to contain a certified boundary survey and legal description thereof, and a general showing of the size and shape of the lots and the proposed streets within the subdivision, and shall further set forth information as to the location of any areas subject to flooding or any other imparement which would affect the health or safety of citizens within the boundaries of the subdivision. The above information shall be accompanied by the sum of Twenty-five (\$25.00) Dollars as the fee for processing the application. The subdivider shall further do such clearing and staking of the proposed roads and streets in such a manner as would provide reasonable accessibility and allow inspection of the proposed subdivision.

3.2 Preliminary Inspection and Approval. Upon receipt of the letter of intent and sketch plan with all required information thereon, the Planning Commission shall cause not less than two (2) of its members to inspect the proposed subdivision and to make a written report of their findings and recommendations including any objections to the proposed subdivision, with the original thereof being submitted to the secretary of the Planning Commission and a copy thereof being forwarded to the subdivider. The inspection team shall notify the subdivider as to the time when the inspection will occur, and may request that the registered surveyor or engineer be present, as well as the subdivider, at the time the inspection occurs. The letter of intent, sketch plan, and the written report of the inspection team shall thereafter be presented to the Planning Commission for its approval at it's next regular meeting. At such time the subdivider shall have an opportunity to present such additional matters in support of the application for approval of the proposed subdivision. In the event the Planning Commission denies approval of the proposed subdivision, it shall set forth in writing the specific objections and requirements which must be met for the subdivider to obtain approval thereof.

3.3 Compliance and Appeal. In the event the Planning Commission

denies the request for approval of the proposed subdivision, the subdivider shall have an opportunity to comply with the written requirements set forth by the Planning Commission and shall thereafter be entitled to a rehearing on the request for approval of the subdivision. The subdivider shall have the further and additional right to a de novo hearing by the City Council of Eureka Springs on the request for approval of the subdivision for a period of sixty (60) days after the denial of the request. On the receipt of written notice of a request for an appeal from a subdivider, within the time aforesaid, the City Council shall appoint an Appellate Inspection Team, to be composed of a member of the City Council, a member of the City Planning Commission, the applicant, the applicant's registered engineer or surveyor, and one subdivider, one housing contractor, and one heavy equipment operator who have been active in residential development in Eureka Springs. The Appellate Inspection Team shall review the records of the Planning Commission, inspect the site of the proposed subdivision, and shall report their findings and determinations back to the City Council. The City Council shall then set a time for a rehearing on the application for approval of the subdivision, at which time the subdivider and all other persons sought to be heard shall be given an opportunity to testify or present evidence in support of their position. In the event the City Council affirms the denial of the approval of the subdivision, the subdivider may thereafter petition for an appeal of that determination to the Circuit Court for the Western District of Carroll County, Arkansas, Provided the request for an appeal is filed within thirty (30) days after the rendition of the decision by the City Council.

3.4 Public Area. For a period of twelve (12) months after the filing of the Letter of Intent by the subdivider, the Planning Commission may require the subdivider to reserve sites for public use, indicated on a plan adopted in accordance with Act 186 of 1957, to permit the public board, commission or body having jurisdiction or financial responsibility, the opportunity to acquire said sites either through purchase, taking of option, or filing of condemnation proceedings under the power of eminent domain.

3.5 Final Plat. Upon receipt of notice that the Planning Commission has approved the sketch plan, the subdivider shall proceed with the preparation of the final plat in conformity with the sketch plan previously approved and with all other requirements of law, to be drawn to a scale not to exceed one inch equals two hundred feet. The final plat shall be in a form suitable for filing, containing the following information:

- (a) Name of subdivision
- (b) Legal description of perimeter of subdivision
- (c) The names and addresses of the owner, developer, and surveyor or engineer
- (d) The number of acres in the subdivision
- (e) The date, map, scale and North arrow
- (f) Contour lines at five feet contour intervals
- (g) Location of all streets, with names indicated, alleys and easements within, interconnecting, and bordering the subdivision, and location of street signs and standards.
- (h) Dimension of streets, alleys, easements, block, parcel and lot lines and subtended angles
- (i) Designation of the lots and blocks in the subdivision
- (j) Certification of the registered engineer or registered surveyor
- (k) Protective covenants

3.6 Additional Data. The Planning Commission may require verification that the following information has been prepared and submitted for study by the appropriate agencies:

- (a) Two prints of detailed water line plans, dimensions, and fire hydrant locations, showing compliance with Ordinance #839 and all amendments thereto, submitted to the Planning Commission
- (b) Two prints of detailed engineering plans and profiles of sanitary sewers and storm drainage improvements, submitted to the Planning Commission.

(c) State Health Department approval of the water supply and/or sewerage system if the requirements of the subdivision are to be met by any other means than by connection to a water supply system or sewerage system operated by the city.

(d) Two prints of the plan and profile for each proposed street in the subdivision, with grade indicated.

SECTION 4. STREETS, EASEMENTS, LOTS AND BLOCKS.

4.1 Streets. The character and location of all streets within the subdivision shall conform with a use plan consistent with the overall land use plan of the City, including a minimum width of right-of-way of not less than eighty (80.0') feet for all collector streets and not less than forty (40.0') feet for all local streets for transportation and placement of utility easements. In the event special conditions require a greater right-of-way, the inspection team of the Planning Commission shall advise the subdivider of the additional requirements, and forward those requirements to the Planning Commission for its consideration as a condition upon which approval of the proposed subdivision will be granted. The developed portion of all streets and roads in the subdivision shall have a minimum width of twenty-four (24.0') feet.

4.2 Surfacing. The subdivider shall construct a hard, all-weather surface on all streets within the subdivision in accordance with the specifications of the City, to be either a two inch bituminous mixture or a double-coated chip and seal over a four and one-half inch rolled limestone base.

4.3 The subdivider will be required to furnish and pay for all improvements of streets and placement and extension of all water and sewer lines within the subdivision, with all such extensions being in conformity with the requirements of the State Board of Health and of the City regulations.

4.4 Easements. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary, and shall be at least twelve (12.0') feet wide.

4.5 Lots and Blocks. The boundaries of lots and blocks shall be developed in a manner which would encourage the interest of the economy of the subdivider and the City with regard to future maintenance of streets and other utilities. In establishing such boundaries, the terrain and size of the proposed subdivision may be taken into consideration with regard to the establishment thereof.

4.6 Area. Minimum area requirements for lots shall be six thousand (6,000.0) square feet for newly established lots and four thousand (4,000.00) square feet for existing lots, and all new lots should contain a minimum frontage of one hundred (100.0') feet.

SECTION 5. RESTRICTIONS, FINAL PLAT AND IMPROVEMENTS.

5.1 The subdivider shall submit a minimum of six copies of any proposed restrictions or covenants proposed for the subdivision, and the Planning Commission may recommend additions, deletions, or changes thereto.

5.2 Upon submission of all required supporting documentation and approval of the final plat, the subdivider shall cause the subdivision plat to be recorded in the Office of the Ex-Officio Recorder for the Western District of Carroll County, Arkansas, and shall thereafter furnish the City twelve (12) file-marked copies of the plat for the City files.

5.3 Building Permit. No building permit shall be issued or construction authorized unless:

(a) The lot upon which the building is to be placed was established prior to the adoption of this Ordinance.

(b) The lot is part of a subdivision previously approved by the Planning Commission.

5.4 Plat. No subdivision plat within the area of authority of the City of Eureka Springs shall be recorded by the Ex-Officio Recorder for the Western District of Carroll County, Arkansas, until such plats have been approved in accordance with the provisions of this Ordinance.

5.5 Utilities. No public or private utility shall extend its facilities to serve an area subject to the requirements of this subdivision, UNLESS,

(a) The extension is to an area where a subdivision plat of record existed prior to the effective date of this Ordinance.

(b) The extension is to an area where a plat of record has been approved by the Planning Commission.

(c) Installation of utilities is required before the plat can receive approval for filing for record, in which event the Planning Commission may grant the utility permission to extend facilities in accordance with specified plans.

(d) The extension of utilities is along a public way in existence and use at the time of the effective date of this Ordinance, but the extension is not greater in depth than two hundred (200.0') feet from the public way.

5.6 Dedication. No street dedication shall be accepted by the City where the adjoining land is intended to be sold until the required plat has been approved by the Planning Commission.

SECTION 6. UTILITIES.

6.1 All public utility companies operating under a franchise granted by the City shall be given the right to place their utility within the easements set forth on the recorded plat of the subdivision, and each such utility shall furnish prompt service to applicants within the approved subdivision, with all such utilities being constructed at the expense of the public utility.

SECTION 7. PENALTY FOR VIOLATION.

7.1 A violation of any provision of this Ordinance shall be, and is hereby deemed to be a misdemeanor, and upon conviction a penalty shall be assessed of Twenty-five and 00/100 (\$25.00) Dollars. Each day a violation continues to exist shall constitute a separate offense of any provision of this Ordinance.

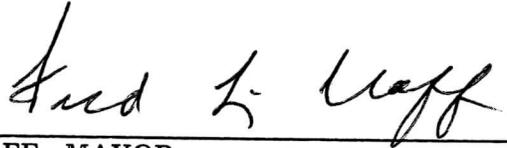
SECTION 8. CONFLICTS AND EMERGENCY CLAUSE.

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

8.2 Repeal. All ordinances and resolutions, and parts thereof in conflict in whole or in part with any of the provisions of this Ordinance are hereby repealed to the extent of such conflict.

8.3 Emergency Clause. It has been found, and it is hereby declared, that the City is in immediate need of regulations to prevent improper, unhealthy and unsanitary use and development of land, and that the passage and enforcement of this Ordinance is necessary for the preservation of the public peace, health and safety, and an emergency is declared to exist whereby this Ordinance shall be effective from and after its passage, approval and publication as required by law.

PASSED AND APPROVED by the City Council of Eureka Spring,
Arkansas, this 7th day of September, 1972.



FRED L. NAFF, MAYOR

ATTEST:


KATHERINE GREEN, CITY CLERK

THOMAS D. LEDBETTER
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