

CITY OF EUREKA SPRINGS  
ARKANSAS

# **MUNICIPAL CODE**

**Adopted August 2007**

**Up-dated August 2022**

**EUREKA SPRINGS MUNICIPAL OFFICIALS AND  
DEPARTMENT HEADS**

**At The Time of This Code's August 2022 Update**

**District Judge**

**Dale Ramsey**

**Mayor**

**Robert D. Berry**

**City Clerk Treasurer**

**Ann E. Armstrong**

**City Attorney**

**Forrest L. Jacobi**

**Aldermen**

**Melissa Greene**

**Harold Meyer**

**Terrence McClung**

**Autumn Slane**

**Nick Roberts**

**William Ott**

**Finance Director**

**Lonnie Clark**

**Police Chief**

**Brian Young**

**Fire Chief**

**Nick Samac**

**Director of Public Works**

**Dwayne Allen**

**Transit Director**

**Kenneth Smith**

**Building Inspector**

**Bobby Ray**

**Parks and Recreation Director**

**Scott Miskiel**

**Historic District/Planning**

**Kylee Hevrdejs**

## **ORDINANCE NO. 2050**

**AN ORDINANCE ADOPTING AND ENACTING A NEW MUNICIPAL CODE OF ORDINANCES OF THE CITY OF EUREKA SPRINGS, ARKANSAS, ESTABLISHING THE SAME; PROVIDING FOR THE EFFECTIVE DATE OF SUCH CODE AND A PENALTY FOR THE VIOLATION THEREOF; AND PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE**

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

**Section 1.** That the Code of Ordinances is hereby adopted and enacted as the “Eureka Springs Municipal Code.” Such code shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances passed by the City Council on or before April 25, 2005, to the extent provided in Section 2 hereof.

**Section 2.** That all provisions of such code shall be in full force and effect from and after the 13<sup>th</sup> day of August, 2007. No resolution of the city, not specifically mention, is hereby repealed.

**Section 3.** That the repeal provided for in Section 2 hereof shall not affect any of the following:

- A. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such code;
- B. Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city’s indebtedness;
- C. Any contract or obligation assumed by the city;
- D. Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc. any street or public way in the city;
- E. Any appropriation ordinance;
- F. Any ordinance which, by its own terms, is effective only for a stated or limited time;
- G. Any ordinance providing for local improvements and assessing taxes therefore;
- H. Any ordinance dedicating or accepting any subdivision plat; or adopting subdivision regulations;
- I. Any ordinance enacted after April 25, 2005

**Section 4.** That whenever in such code an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code the doing of any act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided therefore, the violation of any such provision of such code shall be punishable as provided by Section 1.32.01 of such code.

**Section 5.** That any and all additions and amendments to such code, when passed in such form as to indicate the intention of the City Council to make the same a part thereof, shall be deemed to be incorporated in such code so that reference to the Eureka Springs Municipal Code shall be understood and intended to include such additions and amendments.

**Section 6.** That in case of the amendment of any section of such code for which a penalty is not provided, the general penalty as provided in Section 1.32.01 of such code shall apply to the section as amended; or in such case as such amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

**Section 7.** That three (3) copies of such code shall be kept on file in the office of the City Clerk/Treasurer preserved in loose-leaf form or in such other form as the City Council may consider most expedient. It shall be the express duty of the City Clerk/Treasurer, or someone authorized by the City Clerk/Treasurer, to insert in their designated places all amendments of ordinances which indicate the intention of the City Council to make the same a part of such code when the same have been printed or reprinted in page form, and to extract from such code all provisions which may be from time to time repealed by the City Council. These copies of such code shall be available for all persons desiring to examine the same.

**Section 8.** That it shall be unlawful for any person to change or amend by additions or deletions any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city of Eureka Springs, Arkansas, to be misinterpreted thereby. Any person violating this section shall be punished as provided in Section 4 of this ordinance.

**Section 9.** That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

**Section 10. Emergency Clause** It is hereby found that many of the ordinances of the city of Eureka Springs, Arkansas, are not easily accessible to citizens and municipal officials and thereby has rendered it difficult for many persons to determine the actual laws in effect; and that the city has made unusual efforts to have the laws of the city of Eureka Springs, Arkansas, adopted and published. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED ON THE 13<sup>th</sup> DAY OF AUGUST, 2007

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Mayor Dani D. Wilson

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City Clerk-Treasurer Mary Jean Sell

## **TABLE OF CONTENTS**

<b>Title 1</b>	<b>General Provisions</b>
<b>Title 2</b>	<b>Classification, Administration and Personnel</b>
<b>Title 3</b>	<b>Fiscal Affairs</b>
<b>Title 4</b>	<b>Business Licenses and Regulations</b>
<b>Title 5</b>	<b>Health and Sanitation</b>
<b>Title 6</b>	<b>Animals and Fowl</b>
<b>Title 7</b>	<b>Public Peace, Safety and Morals</b>
<b>Title 8</b>	<b>Vehicles and Traffic</b>
<b>Title 9</b>	<b>Streets and Sidewalks</b>
<b>Title 10</b>	<b>Utilities</b>
<b>Title 11</b>	<b>Buildings and Construction</b>
<b>Title 12</b>	<b>Parks and Recreation</b>
<b>Title 13</b>	<b>Planning</b>
<b>Title 14</b>	<b>Zoning</b>
<b>Title 15</b>	<b>Subdivision Regulations</b>

# **TITLE 1**

## **GENERAL PROVISIONS**

### **Chapters:**

- 1.04 How Code is Designated and Cited
- 1.08 Rules of Construction
- 1.12 Subheadings of Sections
- 1.16 Effect of Repeal of Ordinances
- 1.20 Severability of Parts of Code
- 1.24 Amendments to Code
- 1.28 Altering Code
- 1.32 General Penalty
- 1.36 Referendum Petitions
- 1.37 Initiative Petitions

### **CHAPTER 1.04**

#### **HOW CODE IS DESIGNATED AND CITED**

### **Sections:**

- 1.04.01 How code is designated and cited

1.04.01 How code is designated and cited The ordinances embraced in the following chapters and sections shall constitute and be designated "Eureka Springs Municipal Code" and may be so cited.

STATE LAW REFERENCE-See A.C.A. 14-55-701, et seq.

## CHAPTER 1.08

### RULES OF CONSTRUCTION

#### Sections:

#### 1.08.01 Rules of construction

1.08.01 Rules of construction In the construction of this code and all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council.

STATE LAW REFERENCE: A.C.A. refers to the official Arkansas Code Annotated which set forth the laws passed by the General Assembly of the state of Arkansas.

**CITY** The words "**the city**" or "**this city**" shall mean the city of Eureka Springs, Arkansas.

**CITY COUNCIL** Whenever the words "**City Council**" or "**Council**" are used they shall be construed to mean the City Council of the city of Eureka Springs, Arkansas.

**COUNTY** The words "**the county**" or "**this county**" shall mean the county of Carroll, Arkansas.

**GENDER** A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.

**MAY** The term "**may**" is to be construed as permissive and not as being mandatory.

**MAY NOT** The term "**may not**" has a prohibitive effect and states a prohibition.

**MC** Refers to Municipal Code.

**MUST** The term "**must**" is to be construed as mandatory and not as being permissive.

**NON-TECHNICAL AND TECHNICAL WORDS** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

**MUNICIPALITY** The words "**the municipality**" or "**this municipality**" shall mean the city of Eureka Springs, Arkansas.

**NUMBER** Words used in the singular include the plural, and the plural includes the singular number.

**OATH** The word "**oath**" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "**swear**" and "**sworn**" shall be equivalent to the words "**affirm**" and "**affirmed**".

**OR, AND** "**Or**" may be read "**and**," and "**and**" may be read "**or**" if the sense requires it.

**OTHER CITY OFFICIALS OR OFFICERS** Whenever reference is made to officials, boards, commissions, departments, etc., by title only, i.e., "Clerk/Treasurer," "Police Chief," etc., they shall be deemed to refer to the officials, boards, commissions and departments of the city of Eureka Springs, Arkansas.

**OWNER** The term "**owner**," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

**PERSON** The word "**person**" shall extend and be applied to firms, partnerships, associations, organizations and bodies politic and corporate, or any combination thereof, as well as to individuals.

**SIDEWALK** The term "**sidewalk**" means a strip of land in front or on the side of a house or lot of land lying between the property line and the street.

**STATE** The words "**the state**" or "**this state**" shall be construed to mean the state of Arkansas.

**STREET** The word "**street**" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city of Eureka Springs, Arkansas.

**TENANT** The term "**tenant**" of "**occupant**," applied to a building or land, shall include any person holding a written or oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

**TENSE** Words used in the past or present tense include the future as well as the past or present tense. (MC 1978 1.08.01)



## **CHAPTER 1.12**

### **SUBHEADINGS OF SECTIONS**

#### **Sections:**

1.12.01 Subheadings of sections

1.12.01 Subheadings of sections The subheadings of sections of this code, which are underlined, are intended merely to indicate the contents of the section and shall not be deemed, or taken to be titles of, such sections, nor as any part of the section.

## **CHAPTER 1.16**

### **EFFECT OF REPEAL OF ORDINANCES**

#### **Sections:**

1.16.01 Effect of repeal of ordinances

1.16.01 Effect of repeal of ordinances The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

## **CHAPTER 1.20**

### **SEVERABILITY OF PARTS OF CODE**

#### **Sections:**

1.20.01 Severability of parts of code

1.20.01 Severability of parts of code It is hereby declared to be the intention of the City Council of the city of Eureka Springs, Arkansas, that the titles, chapters, sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, chapter, title or section of this code shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, chapters, titles and sections of this code.

## **CHAPTER 1.24**

### **AMENDMENTS TO CODE**

#### Sections:

##### 1.24.02 Amendments to code

1.24.01 Amendments to code All ordinances passed subsequent to this code which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed titles, chapters, sections or subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby.

Amendment to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this code in the following if substantially similar language: "That section \_\_\_\_\_ of the Eureka Springs Municipal Code is hereby amended to read as follows: . . ." The new provisions may then be set out in full.

In the event a new section not heretofore existing in the code is to be added, the following or substantially similar language may be used: "That the Eureka Springs Municipal Code is hereby amended by adding a section (or title or chapter) to be numbered \_\_\_\_\_, which said section (or title or chapter) reads as follows: . . ." The new provisions may then be set out in full.

All sections, titles, chapters or provisions desired to be repealed must be specifically repealed by section, title or chapter number, as the case may be. In the alternative, if an ordinance is repealed by reference to its ordinance number, then the code section, title, chapter or provision setting forth the words of the repealed ordinance shall be deemed to have been repealed and shall be omitted from this code.

## **CHAPTER 1.28**

### **ALTERING CODE**

#### **Sections:**

1.28.01 Repeal of an ordinance

#### **1.28.01 Repeal of an ordinance**

- A. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect. Repeal of an ordinance shall not affect any punishment or penalty incurred before repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.
- B. The repeal shall not affect any of the following:
1. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this code.
  2. Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness.
  3. Any contract or obligation assumed by the city.
  4. Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the city.
  5. Any ordinance designating an historic district or regarding parks.
  6. Any appropriation ordinance or funding undercover operations.
  7. Any ordinance which, by its own terms, is effective only for a stated or limited time.
  8. Any ordinance providing for local improvements and assessing taxes for such improvements.
  9. Any ordinance dedicating or accepting any subdivision plat.
  10. Any ordinance regarding personnel and other such matters.

11. Any ordinance levying real or personal property taxes.
12. Any zoning map amendments or rezoning.  
(Ord. No. 1050, Sec. 3, 12-2-78.)

## **CHAPTER 1.32**

### **GENERAL PENALTY**

**Sections:**

1.32.01	General penalty
1.32.02	Amendment
1.32.03	Additions

1.32.01 General penalty Whenever in this Municipal Code the doing of any act or the omission to do any act or duty is declared unlawful, and further, whenever the amount of the fine shall not be fixed and no penalty declared, any person convicted for a violation of such provision of this code shall be adjudged to pay a fine of not more than Five Hundred Dollars (\$500.00) or double that sum for each repetition of such offense or violation and if the act is continuous, not more than Two Hundred and Fifty Dollars (\$250.00) for each day of continuance. Provided, for any offense committed against the code for which there is set forth by state law a similar offense the penalty therefore shall be no less nor greater than that set forth by state law.

STATE LAW REFERENCE-See A.C.A. 14-55-502.

1.32.02 Amendment In case of the amendment of any section of this code for which a penalty is not provided, the general penalty of this section shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended unless such penalty is specifically repealed. (Ord. No. 1050, Sec. 6, 12-2-78.)

1.32.03 Additions Any and all additions and amendments to this code, when passed in such form as to indicate the intention of the City Council to make the amendment a part of the code, shall be deemed to be incorporated in such code so that reference to the Eureka Springs Municipal Code shall be understood and intended to include such additions and amendments. (Ord. No. 1050, Sec. 5, 12-2-78.)

## **CHAPTER 1.36**

### **REFERENDUM PETITIONS**

#### **Sections:**

- 1.36.01 Filing date
- 1.36.02 Sufficiency of petition
- 1.36.03 City Council calls election
- 1.36.04 Upon defeat of ordinance

1.36.01 Filing date All referendum petitions under Amendment No. 7 to the Constitution of the State of Arkansas must be filed with the Clerk/Treasurer within thirty (30) days after passage and publication of such ordinance. The Clerk/Treasurer will determine whether such petition contains bona fide signatures of qualified electors at least equal to 15 percent of the number of votes cast in the last Mayor's election. (MC 1978, Sec. 1.36.01)

1.36.02 Sufficiency of petition The sufficiency of the petition shall be decided by the Clerk/Treasurer.

1.36.03 City Council calls election If the Clerk/Treasurer finds that such petition is signed by the requisite number of qualified petitioners, he may certify to the Board of Election Commissioners that such petition is adequate and that the County Board of Election Commissioners should place the ordinance or resolution on the election ballot to determine if it shall stand or be revoked. The Mayor shall then publish a notice of the call of such election in not less than one issue of a newspaper having a general circulation in the city and posting in five (5) public places in the city not less than five (5) days prior to the date of the election. Such notice shall designate by its number, caption and date of passage the ordinance or resolution which has been referred to the people for approval or rejection by their vote at such election. Otherwise, subject to the constitution of the state and other applicable laws, the election shall be conducted in the manner provided for by law for the conduct of a regular municipal election.

1.36.04 Upon defeat of ordinance If any ordinance referred to the people is defeated at the polls, the Clerk/Treasurer shall certify the results of the election and shall further certify the defeat of the ordinance, expunging such ordinance from the ordinance books of the city.

STATE LAW REFERENCE - See Const., Amend. No. 7 and A.C.A. 14-55-301

**CHAPTER 1.37**

**INITIATIVE PETITIONS**

**Sections:**

- 1.37.01 Filing date
- 1.37.02 Sufficiency of petition
- 1.37.03 City Council calls the election

1.37.01 Filing date All initiative petitions under Amendment 7 to the Constitution of the state of Arkansas must be filed with the city Clerk-Treasurer within sixty (60) days of the proposed election at which the proposed measure is to be voted upon as set out in A.C.A. §7-9-104. The city Clerk-Treasurer will determine whether such petitions contain bona fide signatures of qualified electors at least equal to fifteen percent (15%) of the number of votes cast in the last Mayor's election. (Ord. No. 2131, Sec. 1, 11-8-10)

1.37.02 Sufficiency of petition The sufficiency of the petition shall be decided by the city Clerk-Treasurer. (Ord. No. 2131, Sec. 2, 11-8-10)

1.37.03 City Council calls the election If the city Clerk-Treasurer finds that such petition is signed by the requisite number of qualified petitioners, he or she shall certify to the Board of Election Commissioners that such petition is adequate and that the County Board of Election Commissioners should place the measure on the election ballot to determine if it shall be approved or denied. (Ord. No. 2131, Sec. 3, 11-8-10)