

ORDINANCE NO. 93-5-A

City of Elm Springs, Arkansas

AN ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF BUILDING AND STRUCTURES; REGULATING THE SIZE OF BUILDINGS AND STRUCTURES AND DETERMINING THE AREA OF YARDS, COURTS AND OTHER PLACES SURROUNDING THEM; REGULATING AND RESTRICTING THE DENSITY OF USE; DIVIDING THE CITY OF ELM SPRINGS INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING AN OFFICIAL ZONING MAP OF THE CITY OF ELM SPRINGS SHOWING BOUNDARIES AND CLASSIFICATIONS OF EACH DISTRICT; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

**ARTICLE I: PURPOSE AND AUTHORITY**

The zoning regulations set forth herein are enacted to promote the health, safety and general welfare of the citizens of Elm Springs; to prevent the scattering and indiscriminate mixing of uses of property within the City limits; to lessen traffic congestion; to reduce dangers from fire and other natural hazards; to avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewerage, streets, schools, parks and other public requirements; to stabilize property values, and to insure the orderly development of the community. The provisions set forth in this ordinance have been prepared in accordance with the authority for zoning granted by the Arkansas General Assembly in Act 186 of 1957, which is codified as Ark. Code Ann. § 14-56-401 et seq.

**ARTICLE II: JURISDICTION**

The jurisdiction of this ordinance shall include all lands in the city limits of the City of Elm Springs and shall also apply to any lands added to the City limits, for whatever reason, after the adoption of this ordinance.

**ARTICLE III: DEFINITIONS:**

1. Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Buildable Area. The portion of a lot remaining after required yards have been reserved.

3. Dwelling, Single-Family. A detached residential dwelling unit designed for and occupied by one family only and being securely attached to a permanent foundation.

4. Dwelling, Mobile Home. A detached residential dwelling unit designed for transportation on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations.

5. Dwelling, Multiple Family. A residential building or buildings designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

6. Dwelling, Two-Family. A detached residential building or buildings containing two dwelling units, designed for occupancy by not more than two families.

7. Dwelling Unit. One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

8. Lot. For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

- (a) A single lot of record;
- (b) A portion of a lot of record;
- (c) A combination of complete lots of record;
- (d) A parcel of land described by metes and bounds;

Provided that in no case of division or combinations shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

9. Lot Measurement.

- (a) Depth of the lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear-most points of the side lot lines in the rear.

- (b) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of culs-de-sac, where the 80 percent requirement will not apply.

10. Lots of Record. A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

11. Parking Space, Off-Street. For the purpose of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

12. Sign. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

- (a) Signs not exceeding one square foot in area and bearing only property numbers, post box number, names of occupants, or premises, or other identification of premises not having commercial connotations;
- (b) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (c) Legal notices, identification, informational or directional signs erected or required by governmental bodies;
- (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
- (e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

13. Sign, On-Site. A sign relating in its subject matter to the premises on which it is located, or to products,

accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

14. Sign, Off-Site. A sign other than an on-site sign.

15. Street Line. The right-of-way line of a street.

16. Structure or Building. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

17. Yard. A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

#### ARTICLE IV: ZONING MAP

Section 1: Adoption. For future development, the city is hereby divided into districts as shown on the official zoning map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

Section 2: Authentication. The official zoning map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the official zoning map referred to in Article IV of Ordinance Number \_\_\_\_\_ of the City of Elm Springs, Washington County, Arkansas," together with the date of the adoption of this ordinance.

Section 3: Amendments. If in accordance with the provisions of this Ordinance, changes are made in the district boundaries, such changes shall be entered on the zoning map with the date and ordinance number affecting such change.

Section 4: Map Interpretation. The official zoning map shall be located in the office of the City Clerk and shall be prima facie evidence as to the current zoning status of land, buildings and other structures in the City. The City Clerk shall cause to have corrected the zoning district boundaries on the official zoning map as need demands.

#### ARTICLE V: DISTRICTS

Section 1: General. The following districts are hereby established: R-Residential; RE-Residential Estates; C-General

Commercial; I-Industrial; A-Agricultural.

Section 2: Application.

- (a) The area requirements pertaining to each zoning district shall be applied uniformly within the zoning district except as may be varied by the Planning Commission.
- (b) The uses permitted or prohibited in each zoning district establishes the character of the zoning district and shall include, but shall not be limited to, those uses enumerated as being permitted or prohibited within a respective zoning district.
- (c) If the use proposed for a zoning district is not explicitly permitted or prohibited within the zoning district, the Planning Commission shall determine whether said use is compatible (i.e., in character with other uses in the district); and, if it decides in favor of said use, it shall authorize said use to be established. The Planning Commission shall decide each application on its merits, taking into consideration such factors as existing uses, access, location, major streets, plans, etc. The Planning Commission may impose conditions under which a use may be permitted in order to insure compatibility. The finding of the use to be compatible in one location does not imply that the same use is compatible at another location, even within the same zoning district.
- (d) All front, side and rear yard set backs established by this ordinance shall be measured from the center of street rights-of-way as shown in the Master Street Plan, or from side and rear lot lines.

Section 3: Zoning Districts-Character, Permitted Uses and Requirements.

- (a) R-Residential. Purpose is to provide for residential development, public buildings and open space.
  - (1) Permitted Uses: Single-family, duplexes, and multi-family dwellings, Churches, schools, or other public buildings, and open space and accessory structures or uses accessory to principal uses.
  - (2) Uses by Appeal to Planning Commission: Mobile

Homes as regulated under Section VI-5 of this ordinance.

- (3) Area Requirements: \*Up to two acres in total area, as set forth below.

	LAND AREA SQ. FT.	LAND AREA SQ.FT. PER D.U.	FRONT YARD SETBACK	REAR YARD SETBACK	SIDE YARD SETBACK	SIDE YARD ON STREET
Single-Family	21,780	21,780	55'	25'	10'	55'
Mobile Home	21,780	21,780	55'	25'	10'	55'
Two Family	43,560	21,780	55'	25'	10'	55'
Multi-Family	43,560	10,890	55'	25'	--	25'
Mobile Home Park	5 Acres	10,000	75'	75'	25'	60'
Church	43,560	N/A	75'	25'	20'	55'

\* The lot sizes shown are minimum and may have to be increased for individual lots based upon State Health Department requirements for septic tank installation.

(4) Off-Street Parking: Two spaces per each dwelling unit.

(5) Height limitation: For each foot of height above twenty (20) feet any building shall be set back an additional foot beyond the minimum established in (3) above.

(b) RE-Residential Estates. Purpose is to provide for residential development with maximum privacy through the use of open space; permit the keeping of domesticated animals; promote scenic attractions; expand and promote alternative residential use, and protect the environment.

(1) Permitted Uses: Single-family residences; animal husbandry, limited to keeping of horses, cows, goats, sheep and other farm animals for personal and recreational pursuits, so long as no more than two (2) animals are kept on each two (2) acres; Churches, public and recreational facilities.

(2) Area Requirements: Minimum of two (2) acres; maximum of five acres.

	Front Yard Setback	Side Yard Setback	Rear Yard Setback
Residences	55'	10'	25'
Barns and Out-Buildings	100'	50'	100'

On any lot, total buildings shall not exceed 10% of total area.

(3) Height Limitation: Same as R-Residential.

(c) C-General Commercial. Purpose is to provide for commercial business and services, off-street parking, driveways and lot areas.

(1) Permitted Uses: Retail stores, service establishments, offices, automobile sales, motels, carwashes, cafes, service stations, warehousing, self-storage units, public facilities, Churches, and recreational uses.

(2) Minimum Area Requirements and Setbacks:

	Minimum Land Area	Front Yard	Side Yard	Rear Yard
All Commercial	--	55'	10'	25'
Public Facilities	--	55'	10'	25'

(3) Off-Street Parking: One (1) space per each 250 square feet of floor area.

(4) All gasoline storage tanks must be underground.

(5) Height Limitation: Same as R-Residential.

(d) I-Industrial. Purpose is to provide for the full range of industrial activities.

(1) Permitted Uses: Any use involving the manufacture, compounding, processing, packaging, assembling of products, storage of materials, agricultural processing, or open storage yards, and public facilities.

(2) Area Requirements: Lot Coverage--Structures shall not cover more than 50% of the lot area.

- (3) Minimum Area Requirements: At least two acres.

	Front Yard Setback	Side Yard Setback	Rear Yard Setback
All Industrial Uses	75'	25'	25'

- (4) Off-Street Parking: Same as Commercial.
- (5) Height Limitation: Same as Residential.
- (e) A-Agricultural. Purpose is to provide for single family residential and agricultural activities, and to protect flood areas from development.
- (1) Permitted Uses: The growing of any crops, non-confinement animal husbandry and single family dwellings, as well as tenant houses. Mobile homes shall be permitted with the approval of the Planning Commission. Confinement raising of livestock shall be permitted on appeal to the Planning Commission after notice to all property owners within one half ( $\frac{1}{2}$ ) mile in all directions of the exterior limits of the property, and a hearing.
- (2) Minimum Area Requirements: Five acres. Setbacks shall be the same as Residential Estates.

#### ARTICLE VI: GENERAL REGULATIONS

Section 1: Annexed Area. All territory which may hereafter be included within the zoning jurisdiction of Elm Springs shall be annexed to the City of Elm Springs as Agricultural and shall be subject to the requirements of the Agricultural District unless the annexing ordinance accepts such annexed area in a district other than Agricultural, and such annexed area shall continue in such district until such time as this ordinance and the zoning map shall have been amended to zone such territory otherwise.

Section 2: Occupations Permitted in Residential Structures Utilized for Residential Purposes in the Residential and Agricultural Districts. An occupation may be carried on in a residential structure in the Residential and Agricultural Districts only when it:



- (a) Does not require the use of more than fifteen (15) percent of the living area.
- (b) Does not require the use of an accessory building or yard space or an activity outside the main structure not normally associated with residential uses.
- (c) Does not have a sign in excess of four square feet in area to denote the business, occupation or profession.
- (d) Does not involve the outside display of goods and services.
- (e) Receives the approval of the Planning Commission after a public hearing with notice to all property owners within 300 feet.

Section 3: Lot Area. Only on a lot of record existing prior to the passage of this ordinance in the Residential District may a single-family structure be erected if the lot should be of less area or width than required by these regulations, provided all other requirements are met. No residences or buildings shall be moved onto lots of record from other locations, except for storage buildings or accessory structures, nor shall more than one residence be placed on any lot except as allowed in Article V, Section 3(a).

Section 4: Non-Conforming Use:

- (a) Non-conforming use of land and structures may be continued and improved so long as it remains otherwise lawful.
- (b) Once a non-conforming use is changed to a permitted use in the district, or discontinued for a period of one (1) year, the non-conforming use shall not be re-established.
- (c) A non-conforming use can be changed to another non-conforming use only if the use to which it is being changed has been determined by the Planning Commission to be a less intensive use than the existing non-conforming use.

Section 5: Mobile Homes. Placement of mobile homes in the City of Elm Springs shall be subject to the review and approval of the Planning Commission. The placement of one (1) mobile home on any lot shall be allowed, provided that the mobile home is placed on concrete piers with cable tie down. Skirting will be required. All units will be permanently hooked up to utilities.

Mobile home parks shall be permitted subject to review and

approval by the Planning Commission under the following procedure:

- (a) Any one desiring to develop a mobile home park shall file with the Planning Commission an application requesting the Commission's review and approval. The applicant shall provide the Commission with the following information at the time of filing the application:
  - (1) Legal description, ownership and general location of property;
  - (2) A detailed plan showing lot dimensions, the number of mobile homes to be placed, their arrangement on the lot, set backs from exterior property lines and between individual units, type and location of proposed utilities, location of existing improvements above and below the ground, proposed access, street right-of-way and any additional information the Commission might request concerning the property; and
  - (3) A list with addresses of abutting property owners, whether or not a street separates the property.
- (b) The Commission shall notify the abutting property owners by mail, of the request and at the next regular meeting unless the matter is continued for some reason, shall schedule a public hearing on the request.
- (c) The Commission, after reviewing the plans and considering the comments at the public hearing, may grant or deny the application.
- (d) Any decision of the Planning Commission may be appealed to the City Council (as provided by Article VI, Section 7(e)).
- (e) A request once denied shall not be reconsidered for a period of twelve (12) months from the date of denial unless the Commission finds substantial reason exists for waiving this limitation.

Section 6: Fees. Any applicant for a change in zoning shall pay (in addition to all required advertising costs) to the City Recorder a filing fee of \$50.00 to cover such costs as may be incurred in connection with such application. Such fee is to be deposited in the General Fund of the City of Elm Springs.

Section 7: Amendments and Changes.

- (a) This zoning ordinance, when amended, shall be amended

in conformance with the requirements of Ark. Code Ann. 14-56-414 as required for the initial adoption of this ordinance.

- (b) The Planning Commission shall establish procedures for processing requests for revisions in the zoning regulations and changes in the zoning districts.
- (c) No application for change of zoning for a given property may be resubmitted within twelve (12) months from the date of action by the Planning Commission or City Council, whichever is later, unless the Planning Commission or City Council finds that a substantial reason exists for waiving this limitation.
- (d) An applicant for change of zoning or an applicant to the Board of Adjustment shall be required to reimburse the City of Elm Springs for costs of public notices and the conducting of a public hearing.
- (e) Appeal by petition to the City Council. Following disapproval of a proposed change in zoning by the Planning Commission, the petitioner may appeal such disapproval to the City Council, provided that the petitioner states specifically in writing to the City Recorder why he considers the Planning Commission's findings and decisions are in error. Such appeal shall be filed with the City Recorder within fifteen (15) days from the date of the Planning Commission action.

Section 8: Signs. Billboards, free-standing, on-site and off-site signs must receive the approval of the Planning Commission.

Section 9: Planned Unit Development.

- (a) Planned unit developments are authorized to be established in the R-Residential zoning district subject to the requirements of this section and other provisions of this ordinance not changed by this section and provided that each development shall consist of a minimum of one acre.
- (b) The purpose of planned developments is to encourage innovation in housing types and design and to conserve and efficiently use open space in conjunction with development.
- (c) The permitted uses shall be the uses allowed in the R-Residential District.
- (d) General Requirements:
  - (1) Lot Area: There shall be no minimum lot area in a planned unit development. A minimum setback of

twenty-five (25) feet shall be maintained from the outside boundary of the tract for all development.

- (2) Number of Dwellings: The total number of dwelling units shall not exceed ten (10) per acre.
- (3) Common Open Space: There shall be a minimum of 2000 square feet of common open space per each dwelling unit.
- (4) Ownership and Maintenance of Common Open Space: The ownership and maintenance may be accomplished in one of two ways: The common open space may be accepted by the City as public land and the City assume the maintenance responsibility, or the common open space may remain with the development and a neighborhood association shall be formed to be responsible for the maintenance and conservation of the open space.
- (5) Off-Street Parking: The off-street parking requirements shall be the same as provided in Article V Section 3, two spaces for each dwelling unit.
- (6) Approval and Platting of Planned Unit Developments: Each request for a planned unit development shall be approved by the Planning Commission and shall be platted in keeping with the requirements of the subdivision regulations. Partial platting of a planned unit development will be permitted provided that an overall layout has been approved by the Planning Commission and that the proportional amount of permanent common open space is provided with each partial platting.

Section 10: Large Scale Development.

- (a) A large-scale development plan shall be required for all development intended on parcels of land larger than five acres in the R-Residential, C-General Commercial and I-Industrial Districts, except a single-family residence, an addition to or an accessory structure for a single-family residence, and an addition to an existing non-residential structure in the above districts, which does not exceed fifty (50) percent of the existing structure.
- (b) A large-scale development plan shall be submitted to the planning commission for its approval and shall include the following:
  - (1) A map drawn to scale showing the size and shape of the property on which the development is proposed;

- (2) The location, size and arrangement of existing buildings, signs, improvements, water courses or bodies, and any other features that will remain after the development is completed.
  - (3) The location and size of all proposed buildings, parking and loading areas, the type of surfacing proposed for such areas, streets, driveways, curb cuts, landscaping and any other facilities proposed;
  - (4) A correct legal description'
  - (5) The location and names of all abutting or intersecting streets;
  - (6) The location of all proposed public facilities;
  - (7) Sufficient right-of-way dedication to comply with the Master Street Plan; and
  - (8) Sufficient easements to meet utility and drainage requirements.
- (c) The planning commission shall approve, approve with conditions, or disapprove within thirty (30) days of receipt all large-scale development plans submitted. Grounds for disapproval may be failure to comply with any of the above requirements.
- A large-scale development plan approved with conditions or disapproved may be appealed to the City Council. An appeal must be submitted in writing to the City Recorder within fifteen (15) days of the Planning Commission's decision and shall state the reasons for appeal.
- (d) The owner or developer shall submit sufficient plans and specifications for all improvements required by the planning commission and shall install at his expense said improvements.

## ARTICLE VII: ADMINISTRATION AND ENFORCEMENT

### Section 1: Board of Adjustment.

- (a) Designation, Organization, Meeting of the Board.
- (1) The Board of Adjustment, hereinafter referred to as "The Board," shall consist of the members of the planning Commission.

- (2) The Board shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum and procedures, and keep a public record of all findings and decisions.
  - (3) Each session of the Board shall be a public meeting with public notice of said meeting and business to be carried out and published in a newspaper of general circulation in the County at least one time seven days prior to the meeting.
- (b) Appeals from the Decision of Enforcement Officer: The Board may hear appeals from the decision of the enforcement officer in respect to the enforcement and application of building regulations and may affirm or reverse, in whole or part, such decisions of the enforcement officer.
- (c) Variances: The Board may hear requests for variances from the literal provisions of the zoning ordinances in instances where strict enforcement of the zoning ordinances would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning ordinance. The Board may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.
- (d) Fees: Any applicant to the Board of Adjustment shall pay (in addition to all required advertising costs) to the City Recorder a filing fee of \$50.00 to cover such other costs as may be incurred in connection with such application. Such fee is to be deposited in the General Fund of the City of Elm Springs.
- (e) Appeals from the Decisions of Board: The decision of the Board in respect to appeals from the decision of the building code enforcement officer and to requests for variances shall be subject to appeal only to a court of record having jurisdiction.

Section 2: Compliance Required:

- (a) Enforcement:
- (1) The provisions of this ordinance shall be administered by the building inspector designated by the City Council.
  - (2) No structure shall be erected, moved, added to or structurally altered, without a building permit. All applications for building permits shall

provide such information as is necessary to determine conformance with these regulations.

- (b) **Penalty for Violation:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereon be subject to a fine not to exceed two hundred fifty dollars (\$250) for any one specified offense or violation, or double that sum for each repetition of such offense or violation. If the thing prohibited or rendered unlawful is, in its nature, continuous in respect to time the fine or penalty for allowing the continuance thereof, shall not exceed two hundred and fifty dollars (250.00 for each day that the same may be unlawfully continued.

The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, engineer, agent or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

#### **ARTICLE VIII: SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any section, paragraph, sentence or clause of this ordinance shall be held invalid, the invalidity of such section, paragraph, sentence or clause shall not effect the validity of the remaining portion of the ordinance.

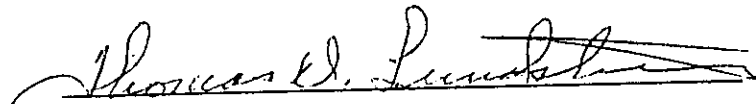
#### **ARTICLE IX: LEGAL STATUS**

All ordinances or parts of ordinances of the City of Elm Springs in conflict herewith are hereby repealed.

Section 1: Effective Date. It has been found and is hereby declared by the City Council that this ordinance is immediately required in order to promote safety from fire and other dangers; to promote healthful living conditions; to provide adequate light and air; to prevent the over-crowding of land and undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public facilities; to stabilize property values and to insure the orderly development of the community for the general welfare of the citizens. Therefore, an emergency is hereby declared to

exist and this ordinance, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from the date of its approval.

PASSED AND APPROVED THIS 3<sup>rd</sup> DAY OF May, 1993.

  
MAYOR

ATTEST:

  
CITY CLERK



I CERTIFY THIS IS A TRUE AND  
 CORRECT COPY OF THE ORIGINAL DOCUMENT.  
 DATED THIS 3<sup>rd</sup> DAY OF Jan  
 19 95 Barbara Dillard  
 COURT CLERK

ORDINANCE NO. 95-1-A

CITY OF ELM SPRINGS, ARKANSAS

AN ORDINANCE TO AMEND SECTION THREE (3) OF ORDINANCE NO. 93-5-A, (THE ZONING ORDINANCE) OF THE CITY OF ELM SPRINGS, ARKANSAS, AND FOR DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, the City Council of Elm Spring, Arkansas, deems it necessary to amend the Zoning Ordinance of the City of Elm Springs, Arkansas, to change various requirements thereunder; and

WHEREAS, the Elm Springs Planning Commission has determined after a lengthy study to establish updated guidelines for the Ordinance,

NOW, BE IT ORDAINED by the City Council of Elm Springs, Arkansas, in its regular session, assembled, as follows:

Section 3 of Ordinance NO. 93-5-A, (the Zoning Ordinance for the City of Elm Springs, Arkansas), shall be amended to read as follows:

SECTION 1: ZONING DISTRICTS-CHARACTER, PERMITTED USES AND REQUIREMENTS:

(a). R-RESIDENTIAL: Purpose is to provide for residential developments, public buildings and open space.

(1). Permitted Uses: Single-family, duplexes, and multi-family dwellings, Churches, schools, or other public buildings, and open space and accessory structures or uses accessory to principal uses.

(2). Uses by Appeal to Planning Commission: Mobile Homes as regulated under Section VI-5 of this Ordinance.

(3). Area Requirements: Up to Two (2) acres in total area, as set forth below.

	LAND AREA SQ. FT.	LAND AREA SQ. FT. PER D.U.	FRONT YARD SETBACK	REAR YARD SETBACK	SIDE YARD SETBACK	SIDE YARD SETBACK
Single-family	43,560	43,560	55'	25'	10'	55'
Mobile Home	43,560	43,560	55'	25'	10'	55'
Two-Family	43,560	43,560	55'	25'	10'	55'
Multi-Family	43,560	43,560	55'	25'	10'	55'
Mobile Home Park	5 Acres	10,000	75'	75'	25'	60'
Church	43,560	N/A	75'	25'	20'	55'

**SECTION 2:**

That all other provisions of Zoning Ordinance shall remain in full force and effect.

**SECTION 3: SEVERABILITY:**

The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, sentence, or clause of this Ordinance shall be held invalid, the invalidity of such Section, paragraph, sentence, or clause shall not effect the validity of the remaining portion of the Ordinance.

**SECTION 4: LEGAL STATUS:**

All Ordinance or parts of Ordinances of the City of Elm Springs, in conflict herewith are hereby repealed.

It has been found and declared by the City Council that this Ordinance is immediately required in order to promote safety from fire and other dangers, to promote healthful living conditions; to provide adequate light and air; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public facilities; therefore, an emergency is hereby declared to exist and this Ordinance being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from the day of its approval.

PASSED AND APPROVED this 3<sup>rd</sup> day of Jan., 1995.

  
MAYOR

ATTEST:

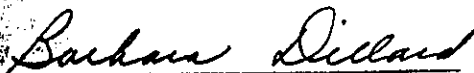
  
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 K. J. JONES

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ORDINANCE # 97-001

ELM SPRINGS ZONING ORDINANCE

SECTION I - PURPOSE

It is the intent of this zoning ordinance to divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses; to regulate the intensity of the use of lot areas and to regulate and determine the area of open spaces surrounding such buildings; to establish building lines and the location of buildings designed for specified industrial, business, residential and other uses within such area; to fix standards to which buildings or structures shall conform therein; to prohibit uses, buildings or structures incompatible with the character of such districts, respectively; to prevent additions to and the alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder; to limit congestion in the public streets by providing for the off-street parking and loading and unloading of vehicles; providing for the gradual elimination of nonconforming uses of land, building and structures; and prescribing penalties for the violation of this ordinance; to lessen congestion in the streets, to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to conserve the taxable value of land and buildings throughout the city; to promote the public health, safety, and general welfare; and for other purposes.

SECTION II - TITLE

This ordinance may be known and may be cited as the City of Elm Springs Zoning Ordinance No. 97-001.

SECTION III - DEFINITIONS

For the purpose of this Ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future words used in the singular number shall include the plural number, and the plural the singular; the word "building" shall include the word "structure"; and the word "lot" shall include the word "plot"; and the "shall" is mandatory and not directory.

Accessory Buildings and Uses: An accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the

same lot as, the use of the main building or principal use of the land. An accessory use is one which is clearly incidental to, or customarily found in connection with, and on the same lot as, the main use of the premises. When "accessory" is used in the text, it shall have the same meaning as accessory use.

**Acreage:** Any tract or parcel of land which has not been subdivided and platted.

**Aesthetics:** Having to do with the beauty of a place, a structure or a use, as distinguished from what may be merely practical, useful, scientific or common. In some instances a "clashing" use may be appropriate while in others a "clashing" use may so detract from established uses as to be sufficiently aesthetically unpleasing.

**Alley:** A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

**Apartment:** A room or suite of rooms in a multi-family structure which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

**Automobile Junk or Salvage Yard:** An area outside of a building where motor vehicles are disassembled, dismantled, junked, or "wrecked", or where motor vehicles not in operable condition or used parts of motor vehicles are stored.

**Basement:** A story partly or wholly underground. Where more than one half of its height is above the average level of the adjoining ground, a basement shall be counted as a story for purpose of height measurement.

**Billboard:** Any structure or portion thereof upon which are signs or advertisements used on an outdoor display. This definition does not include any bulletin boards used to display official court or public notices, or signs advertising the sale or lease of the premises on which the sign is located.

**Building:** Any structure including a roof supported by walls or columns, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property and forming a construction that is safe and stable; the word building shall include the word structure.

**Building Area:** The buildable area of a lot is the space remaining after the minimum open space requirements of this Ordinance have been complied with.

**Building, Height of:** The vertical distance measured from the average elevation of the finished grade of the lowest floor of the building to the highest point of the structure, exclusive of chimneys, ventilators, or other extensions above the roof line that are not intended for occupancy or internal usage by persons.

**Building Line:** A line drawn on plats and other property description maps delineating the area within which a structure can be built.

**Building, Main or Principal:** A building in which is conducted or intended to be conducted, the main or principal use of the lot on which said building is located.

**Carport:** A structure attached or made a part of the main structure, and which is open to the weather on a least two sides, intended for the use of sheltering not more than two motor driven vehicles.

**Child Care Center:** Any place, home or institution which receives five or more children under the age of sixteen (16) years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation; provided, however, this definition shall not include public and private schools organized, operated or approved under the laws of this State, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree of the custodial persons, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or engaged in church activities.

**Clinic, Dental or Medical:** A facility for the examination and treatment of ill and afflicted human out-patients; provided, however, that patients are not kept overnight except under emergency conditions.

**Court:** An open unoccupied space, other than a yard, on the same lot with a building and bounded on two or more sides by such building.

**District, Zoning:** Any section, sections, or divisions of the City for which the regulations governing the use of land, density, bulk, height, and coverage of buildings and other structures are uniform.

**Drive-in Commercial Uses:** Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theaters, and similar uses.

**Dwelling:** Any building, or portion thereof, which is designed or used as living quarters for one or more families, but not including house trailers, mobile homes, travel trailers, or other recreation vehicles.

**Dwelling, Attached:** A dwelling having any portion of one or more walls in common with adjoining dwellings.

**Dwelling, Detached:** A dwelling having open space on all sides.



Dwelling, One-family: A detached residential dwelling unit designed for and occupied by one family only, and being securely attached to a permanent foundation.

Dwelling, Mobile Home: A detached residential dwelling unit designed for transportation on streets or highways on its own wheel or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations.

Dwelling, Two-family: A structure designed to be occupied by two families living independently of each other.

Dwelling, Multiple-family: A structure designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or motels.

Dwelling, Townhouse or Row House: Two or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family.

Dwelling Units: One or more connected rooms established for owner occupancy, rental or lease, and physically separate from any other rooms or dwelling units in the same structure and containing independent cooking and sleeping facilities.

Family: One or more persons related by blood or marriage, including adopted children, or a group of not to exceed four (4) persons not all related by blood or marriage, occupying premises and living as a single, non-profit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family may include domestic servants employed by said family.

Fence: A man-made barrier constructed to provide privacy or visual separation between one ownership and another.

Floor Area: The sum of the gross horizontal areas of all of the floors of a building or buildings measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings.

Fowl: Any member of the avian species, including but not limited to chickens, turkeys, ducks, geese, ostrich, etc., whether raised for commercial purposes or not.

Garage, Private: An accessory building or a part of a main building used for storage purposes only for vehicles and personal belongings, used solely by the occupants of the building to which it is accessory and their guests.

**Garage, Public or Repair:** A building in which are provided facilities for the care, servicing, repair, or equipping of automobiles.

**Gasoline or Service Station:** Any building, structure, or land used primarily for the dispensing and sale of fuels, oils, accessories, or minor maintenance and repair services but not including painting, body work, or major repairs.

**Home Occupation:** Any use conducted within the dwelling and carried on by the inhabitants which is clearly incidental and secondary to dwelling purposes and does not change the character thereof; provided that no article is sold or offered for sale except that produced on the premises by members of the immediate family.

**Hospital:** An institution providing health services primarily for human in-patient or medical or surgical care for the sick or injured, and including related facilities such as laboratories, facilities and staff offices which are an integral part of the facilities.

**Hotel:** A building or part thereof occupied as a more or less temporary abiding place for individuals in which the rooms are usually occupied singularly for hire and in which rooms no provisions for cooking is made, and in which building there is usually a kitchen and public dining room for the accommodation of the occupants and guests. This definition does not include an auto or trailer court or camp, sanatorium, hospital, asylum, orphanage, or building where persons are housed under restraint.

**Kennel:** Any lot or premises on which four (4) or more dogs or cats, more than six months of age are boarded for monetary gain.

**Loading Space:** An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**Lot:** A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance including one main building together with its accessory building, and the open spaces and parking spaces required by this Ordinance, and having its principal frontage upon a street.

**Lot, Area:** The total horizontal area included within the lot.

**Lot of Record:** A lot or parcel of land, the deed to which has been recorded in the office of the County Recorder of Benton or Washington Counties prior to the adoption of this ordinance.

**Lot, Corner:** A lot abutting upon two or more streets at their intersection.

Lot, Depth: The horizontal distance between the front and rear lot lines measured at right angles to the lot width at a point midway between the side lot lines.

Lot, Double Frontage: A lot which is an interior lot extending from one street to another and abutting a street on two ends.

Lot Lines: The lines bounding a lot as defined herein.

Lot Line, Front: In the case of an interior lot, the line separating said lot from that street pavement edge or right of way which is designated as the front street in the request for a building permit.

Lot Line, Rear: The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line as defined herein.

Lot, Interior: A lot other than a corner lot.

Lot, Width: The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Manufactured Home: A detached single-family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This Code means the standard for construction, design and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, Part 3280, 3282, 3283, and 42 USC 5401, ET SEQ., as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development.

Mobile Home: A movable or portable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, which is larger than three hundred twenty (320) square feet, and designed to be used as a year-round residential dwelling unit. A mobile home located in a mobile home park shall meet all of the specifications and standards required by such mobile home parks and every such mobile home shall be anchored in compliance with the design board requirements of the City Building Code. Furthermore, all mobile homes shall provide on-site an all-weather off-street parking space and the placement of the mobile home must be such that it conforms with all bulk and area requirements of the zoning district.

**Motel:** A motel or motor court is a business comprised of a building or group of buildings so arranged as to furnish overnight accommodations for transient guests.

**Nonconforming Use:** Any building or land lawfully occupied by a use at the adoption of this Ordinance which does not conform with the use or area regulations of the district within which it is located.

**Nursing Home:** Any premises where more than three persons are lodged and furnished with meals and nursing care.

**Open Space:** An unoccupied space open to the sky on the same lot with the building and occupied by no structure or portion of structure whatever.

**Parking Lot:** A paved off-street facility including parking spaces and drives and aisles for maneuvering, and providing access for entrance and exit, developed in a way to accommodate the parking of automobiles.

**Parking Space, Off-street:** An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides.

**Principal Use:** The specific primary purpose for which land, building, or structure is used or intended to be used.

**Porch:** A roofed projection out from the wall or walls of a building and commonly open to the weather in part.

**Public Utility:** Any person, firm, corporation, municipal department, or board, duly authorized to furnish, and furnishing under regulations to the public, electricity, gas, telephone, television cable, telegraph, transportation, drainage, water, or sanitary sewage.

**Satellite Television Receiving Dishes, Ground Mounted:** A device commonly parabolic in shape, mounted at a fixed point on the ground for the purpose of capturing television signals transmitted via satellite communications facilities and serving the same or similar function as the common television antenna. Said devices are herein defined as accessory structures.

**Service Station:** See Gasoline Service Station.

**Setback:** Distance between the lot line or planned right-of-way line and the building line. For the purposes of this ordinance, the planned right-of-way shall be 50 feet for local streets, 60 feet for collector streets, and 80 feet for arterial streets, as shown on the Master Street Plan. To determine the setback, the planned right-of-way shall be used unless the

existing right-of-way is greater than the planned right-of-way, in which case the existing right-of-way shall be used.

Sign: A sign is any structure or part thereof, or any device attached to, painted on, or represented on a building or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature of an announcement, direction, advertisement, or other attention directing device. The following shall not be included in the application of the regulations herein:

- (a) Signs not exceeding one square foot in area and bearing only property numbers, post box number, names of occupants, or premises or other identification of premises not having commercial connotations;
- (b) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (c) Legal notices, identification, informational or directional signs erected or required by governmental bodies;
- (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
- (e) Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

Sign Area: The area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area.

Sign, On-Site: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services or erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, Off-Site: A sign other than an on-site sign.

Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and ceiling next above it. A half story is a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of each story.

Street Line: The right-of-way line of a street.

Street: Any public or private thoroughfare which affords the principal means of access to abutting property.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground or attached to something having a fixed location on the ground. The word structure shall include the word building.

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Travel Trailer: The travel trailer unit is a dependent temporary single-family dwelling built on a chassis not exceeding 8 feet wide and 32 feet long designed for short-term occupancy and frequent travel, requiring park services for utility and sanitary facilities. Unit may be self-propelled or towed behind a vehicle without a special permit required. If a travel trailer is to be lived in for a period of more than six (6) continuous weeks it shall be considered a mobile home and meet all of the requirements for a mobile home.

Travel Trailer Park: A unified development under private ownership designed primarily for transient service, on which travel trailers, pick-up coaches, and self-propelled motorized vehicles are parked or situated for short-term occupancy. The owner shall provide park services for utility and sanitary facilities.

Use: The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Visual Pollution: Signs of varying sizes, varying heights, at varying set backs in a limited area.

Yard: An open space on the same lot with a building unobstructed from the ground upward and measured as the minimum horizontal distance between the lot line and the main building.

Yard, Front: A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, terraces, or uncovered porches. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

Yard, Rear: A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line in the rear of the main building or any projection other than steps, unenclosed porches, or entryways.

Yard, Side: A yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.

Zoning Lot: A parcel of land that is designated by its owner or authorized agent as a tract, all of which is to be used, developed, or built upon as a unit under a single ownership. A zoning lot may consist of any standard lot or a combination of lot and any legally recorded portion of a lot that existed prior to the passage of this Ordinance. When determining the front, rear and side yard setbacks for a zoning lot, the required distance shall be measured from the exterior boundaries of said zoning lot.

#### SECTION IV - THE ZONING MAP

1. Adoption.

The City of Elm Springs, Arkansas, is hereby divided into districts as shown on the zoning map, a copy of which is attached hereto and marked "Exhibit A" for reference, and which is hereby adopted as part of this ordinance. The official zoning map shall be filed in the Office of the City Clerk.

2. Authentication.

The official zoning map shall bear the signature of the Mayor of Elm Springs, Arkansas, attested by the City Clerk, and shall also bear the date of the adoption of this Ordinance. The official zoning map shall be conclusive proof of the districts designated thereon.

3. Amendment.

Any changes to the zoning map may be made only in conformance with the amendment procedures of this ordinance. Such changes shall be promptly entered on the map with the date and ordinance number affecting the changes.

4. Map Interpretation.

In interpreting the boundary line of any district shown on the zoning map, the following rules shall apply:

- A. Boundary lines following streets and alleys shall be construed as following the center lines thereof.
- B. Boundary lines approximately following lot or parcel lines shall be construed as following such lot or parcel lines.
- C. Boundary lines dividing a lot or parcel shall be construed as being in the scaled location shown on the map.
- D. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- E. Boundaries interpreted as following railroad lines shall be construed to be midway between the main tracks.
- F. Boundaries indicated as parallel to or extensions of features mentioned in the preceding rules shall be so construed.
- G. In circumstances not covered by the preceding rules, the Planning Commission shall interpret the district boundaries.



## SECTION V - GENERAL PROVISIONS

1. All street and alley rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alley or street rights-of-way. Where the center line of a street or alley serves as a district boundary the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.
2. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than as permitted in the district in which the building or land is located.
3. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located. Exceptions are roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment to operate and maintain the building, and fire walls, sky lights, towers, steeples, flagpoles, chimneys, smokestacks, radio and television aerials or antennas, wireless masts, water tanks, or similar structures. These exceptions may be erected above the height limits herein prescribed but when erected they shall not extend more than twenty-five (25) feet above the height limits of the district in which located. Aerials or antennas designed to aid home television or radio reception may be erected to a height not to exceed sixty (60) feet from the ground level, provided they are attached to the building or erected in the rear yard area.
4. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which it is located.
5. No space of a lot defined by this ordinance as part of a side yard, rear yard, front yard, court or other open space may (by reason of change in ownership or otherwise) be counted or calculated to comply with a yard, court or other open space requirement of or for any other building. Overhanging eaves, including gutters, may not project over the minimum set back requirements.  
  
The minimum side yards or other open spaces, including lot areas per family required by this Ordinance for each and every building existing at the time of adoption of this ordinance, or for any building hereafter erected, shall not be encroached upon or considered as yard or open-space requirements for any other building.
6. Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined and in no case shall there be more than one such building on one lot unless otherwise provided in this Ordinance.

7. Any separate tract of record at the time of the adoption of this Ordinance, that does not meet the requirements of this Ordinance for yards, courts, or other area of open space may be utilized for single residence purposes provided the requirements for such yard or court area, width, depth or open space is within seventy (70%) percent for that required by the terms of this ordinance. The purpose of this provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided.

8. No building shall be constructed or erected upon a lot, or parcel of land, which does not abut upon a public street or permanent easement of access to a public street which easement shall have a minimum width of fifty (50) feet, unless an easement of lesser width was of record prior to the adoption of this amended Ordinance.

9. No wall, fence or shrubbery shall be erected, maintained or planted on any lot which obstructs or interferes with safe traffic visibility on a curve or at any street intersection within a triangle formed between the corner and a point twenty five (25) feet down each street along the street right-of-way line.

10. A dwelling shall not be erected in the "C-1" commercial district; however, the sleeping quarters of a watchman or caretaker are permitted.

11. Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this Ordinance, and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within two years from the date of adoption of this Ordinance.

12. Any area annexed to the city shall, upon such annexation, be automatically zoned "A-1" until otherwise zoned.

## **SECTION VI. - DISTRICTS**

### **1. In General.**

The City of Elm Springs, Arkansas, is hereby divided into the zoning districts listed below. No use permitted in one district shall be permitted in any other district unless so provided in this chapter.

- A-1 - AGRICULTURAL
- R-1 - LOW DENSITY RESIDENTIAL
- R-2 - DUPLEXES
- R-O - RESIDENTIAL OFFICE
- C-1 - COMMERCIAL

## 2. Application.

As to any use proposed for a zoning district which is not expressly permitted or prohibited within that district, the Planning Commission shall determine whether the use shall be allowed within the district and shall consider the following factors:

- A. The character of uses expressly permitted in the district.
- B. The traffic flow which would be created by the proposed use.
- C. Any possible air, water or noise pollution.
- D. Parking and access requirements of the proposed use.
- E. Any necessary extension of utilities.
- F. Existing neighborhood uses including those now within the district for which the use is proposed.
- G. The expected impact of the proposed use on the aesthetic character of the City of Elm Springs, Arkansas.

## 3. Zoning Districts, Character and Description

A. Residential Districts. These districts are designed to provide a suitable environment for residential and family life including accommodations for recreation areas, schools, churches, community facilities and public utilities. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element. Residential areas should be protected from encroachment by incompatible uses.

1) A-1: AGRICULTURAL. The Agricultural district is designed to provide for the compatible existence of agricultural activities within the city's corporate boundaries so that agricultural uses are protected as a valuable natural resource and do not unduly disturb the desirable functioning of residential, commercial, industrial or other uses.

2) R-1: LOW DENSITY RESIDENTIAL. The low density residential district is intended to provide for the development of medium and large lot family residences and related recreational, religious and educational facilities normally required for a balanced and attractive residential area.

3) R-2: DUPLEXES. This district provides for the development of small two family residences.

4) R-O: RESIDENTIAL OFFICE DISTRICT. This district provides for the harmonious blending of residential and low activity commercial and professional office uses having more of a residential than a commercial character in building types, open space, traffic circulation, and parking arrangements. This district is also provided as a buffer for the stabilization of residential land use on the fringe of high activity commercial and industrial areas and to protect adjacent residential areas from commercial and industrial encroachment.

B. Commercial District. This district is designed to provide an appropriate environment from low to medium density retail, commercial and industrial activities.

1. C-1: COMMERCIAL DISTRICT. This district provides for the development of commercial activity. Retail stores which depend upon high volume consumer patronage are expressly forbidden.

#### 4. Permitted Uses by Zoning District Table

The following table indicates allowable uses by an X or SP opposite the use and under the column for each zone in which the use is allowed. An "X" indicates the use is allowed. An "SP" indicates the use is permitted only in special cases when it will not adversely affect surrounding property because it can, in some circumstances, more intensely dominate an area.

PERMITTED USES	RESIDENTIAL ZONING DISTRICTS			
	A-1	R-1	R-2	R-O
Single Family	X	X	X	X
Single Family Mfg. Home	X			
Single Family Zero Lot Line				SP
Single Family Attached			X	X
Single Family Mobile Home	X		X	X
Townhouses				SP
Duplexes			X	
Multifamily Dwellings				SP

Church - places of Worship	SP	X	X
Child Care Center		SP	
Club or Lodge - Private		SP	
Community Building	SP	SP	X

PERMITTED USES

RESIDENTIAL ZONING DISTRICTS

	A-1	R-1	R-2	R-0
Home Occupation	SP	SP	SP	SP
Hospital, Health Center	SP		SP	
Institution for Aged/Children	SP			SP
Nursing/Rest Home		SP		SP
Park/Recreational Facility		SP	X	
Raising of Livestock & Poultry	X			
School, Nursery, Day Care for Children subject to Art. 5 Sec. 3	SP	SP	SP	X
School, Public or Parochial	SP	SP	SP	X
Antique Shop				SP
Field Crops/Gardens	X	X	X	X
Accessory Uses as defined in Art. X that are accessory to permitted uses in the district			X	X

PERMITTED USES

COMMERCIAL DISTRICTS

	R-O	C-1
Aircraft Landing Strip	SP	SP

Automotive Body Shop		X
Automotive Car Wash	SP	X
Automotive Service Station without painting, motor or body repair	SP	
Bank, Savings & Loan	SP	X
Barber & Beauty Shop	SP	X
PERMITTED USES	COMMERCIAL DISTRICTS	
	R-O	C-1
Bulk Storage -Goods & Materials*	SP	SP
Child Care Center	SP	X
Clinic-dental, Medical, Osteopathic, Chiropractic	X	X
Club or Lodge	SP	X
Drug Store or Pharmacy	SP	X
Dry Cleaners & Laundry	X	X
Eating Place, interior dining No drive-in auto service		X
Eating Place providing Auto Service		SP
Florist Shop & Greenhouse		SP
Funeral Home, Mortuary, Undertaker		SP
Hotel or Motel		X
Manufacturing & Assembly		X
Milling		X
Professional Offices	X	X

Public Building & Facilities	SP	X
Repair or Service Establishments	SP	X
Retail Establishments	SP	SP
School, Nursery or Day Care	X	X
Studio, photographic, musical	X	X
Processing Plant		X
PERMITTED USES	COMMERCIAL DISTRICTS	
	R-O	C-1
Theater, indoor		SP
Transportation		X
Warehousing, inside storage		X
Wholesale establishment		X

\* All exterior bulk storage of goods and materials must be within the confines of structures or enclosed entirely by a sight-proof fence at least six feet high.

#### 5. Yard and Area Requirements.

No lot or yard shall be established or reduced in dimension or area in any district that does not meet the minimum requirements set forth in the following table. No building or structure shall be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in the following table. All uses not specifically listed below, e.g. community facilities, public utilities, etc., shall meet the most restrictive area, yard and height requirements listed below for the zoning district in which they are located.

ZONING DISTRICT	LOT	AREA	LOT WIDTH	FRONT YARD	SIDEYARD			MAX. STORIES	HGT. FT.
					INT.	Corner Int. Ext.	REAR		
A-1	Single Family	1 acre	100	50	10	25	25	2 ½	35
	Single M.H.A.	5 acres	200	100	25	50	50	1	35
R-1	Single Family	1 acre	100	50	10	25	25	2 ½	35
R-2	Single Family	1 acre	100	50	10	25	25	2 ½	35
	Duplex	½ acre	100	50	10	25	25	2 ½	35
R-O	Single Family	1 acre	100	50	10	25	25	2 ½	35
Other	Other R-O uses	1 acre	100	50	0 to 15B	0 to 15B	25	2	30
C-1	Commercial	1 acre	100	50	0 & 15B	20	25	3	36

A. Every mobile home placed in Elm Springs must first be approved for label verification and code compliance.

B. When abutting residential property



## 6. Special Uses and Permits

A. General. Some uses are "special" and may or may not be appropriate within certain zoning districts because of the unique operational or physical characteristics of the use, consideration must be given to each application for a special use to insure that reasonable conditions and restrictions can be provided to protect the character and integrity of the area in which the use is being requested.

B. Uses Restricted to Specific Districts. Uses which are listed as Special Uses may be located only in the districts designated in accordance with the Application and Review procedures in this section.

C. Uses Permitted in Any District. The following uses are permitted in any district but must each be applied for in accordance with the Application and Review Procedures in this section: (1) Cemetery or mausoleum. (2) Greenhouse. (3) Hospital or Sanatorium, (4) Aircraft Landing Field, (5) Radio Transmitting Station and Tower, (6) Removal of gravel, topsoil, or similar neutral material, (7) Public Utility structure.

### D. Application and Review Procedures

1) An application for a Special Use Permit must be filed by the owner of the property with the City Clerk. The application must identify; (a) Name and address of Applicant; (b) Type of use proposed; (c) Location of the site of the intended use; (d) Owners of adjacent properties; and (e) Any other information pertinent to the use being requested.

2) The City Clerk shall publish a notice of a Public Hearing by the Planning Commission on the proposed special use in a newspaper of general circulation in the City of Elm Springs at least fifteen (15) days prior to the public hearing. The public hearing notice will state the day, date, time and location of the public hearing.

3) The City shall post a sign which states "SPECIAL USE PERMIT REQUESTED FOR THIS PROPERTY" in a prominent place within the street right-of-way at the front of the property. The sign must be at least two (2) feet by two (2) feet with letters four (4) inches high and must also display a copy of the application and the public hearing notice in a weatherproof container.

4) At the public hearing the Planning Commission shall determine the nature and condition of all adjacent uses and structures and whether the

proposed use will cause no change, an improvement, or an adverse effect upon the adjacent property relative to (a) traffic volume; (b) noise; (c) sight; (d) sound; (e) aesthetic value; and (f) economic value.

5) If an application for a special use permit is approved, the conditions of approval shall be listed on the permit which shall also include any time limit on the approved duration of the special use.

6) All special use permits shall be reviewed one year from the time of issue and annually thereafter by the Planning Commission. A special called review of a special use permit may be initiated by a written complaint by a citizen of Elm Springs which must cite specific violations of the conditions of the permit. The holder of the special use permit shall be notified of all annual and special reviews by certified mail at least 15 days prior to the review. The holder of the permit is also responsible for submitting his or her correct mailing address to the City Clerk immediately upon changing mailing addresses. Any permitted special use found not to be in conformance with the conditions of the permit shall be revoked by the City Clerk if the owner does not bring the use into compliance within 30 days of the annual review or specially called review.

## SECTION VII - NONCONFORMING STRUCTURES AND USES OF LAND

### 1. Nonconforming Use of Land.

Where, on the effective date of adoption of this Ordinance, a lawful use of land exists under the terms of these zoning regulations as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Ordinance. If any such non-conforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

### 2. Nonconforming Structures

A. Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Ordinance that could not be built under the terms of these regulations by reasons of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may

be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Such structure, upon approval of the Board of Zoning Adjustment, may be remodeled to maintain the premises in a safe and usable condition.
2. Should a structure be destroyed by any means and rebuilding is not commenced within one (1) year from the date of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Ordinance.
3. Such structure, upon the approval of the Planning Commission, may be added to if said addition meets the area requirements of the land use zoning district in which the structure is located, provided said use of structure is in conformance with this Zoning Ordinance.

### 3. Nonconforming Use of Structures

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Zoning Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this Zoning Ordinance in the district in which it is located shall be structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any non-conforming use may be extended to any portion of a structure arranged or designed for such non-conforming use at the time of adoption or amendment of this Zoning Ordinance, but no such use shall be extended to occupy any land outside such building. If no structural alterations are made, any non-conforming use of a structure or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment shall determine that the proposed use is equally appropriate to the district as the existing non-conforming use.

C. Any non-conforming use, once changed to a conforming use, shall thereafter conform to the regulations for the district in which such structure is located and all new uses shall be conforming uses.

D. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

E. Should a structure containing a non-conforming use be destroyed by any means to an extent of more than 60 percent (60%) of its replacement cost at time of destruction, the owner may request permission of the Board of Adjustment to reconstruct the structure and to continue the non-conforming use. The Board of Adjustment may grant or deny a request to reconstruct such a structure. In granting a request to reconstruct the structure, the Board may require conformance to yard requirements, on-lot parking space, adequate screening from adjacent uses and such other items deemed appropriate to the district in which located.

## **SECTION VIII - OFF STREET PARKING REQUIREMENTS**

### **1. General Requirements.**

A. All parking spaces required by this article shall be paved with a sealed pavement surface and maintained so that no dust is caused by continued use.

B. Parking spaces used with an existing building on the effective date of this ordinance are counted, as is, but shall not be counted to serve additions to the building or any new building - unless the spaces meet the requirements of this section.

C. Total parking space requirements for mixed uses shall be the total of all uses calculated according to the square footage which each use occupies.

D. A parking space shall not be substituted for a loading space nor a loading space for a parking space.

E. Except for one and two family residences, no parking space shall be designed so that a vehicle is required to back into a public street for egress.

F. Parking spaces for nonresidential uses adjacent to residential zones shall be screened from view of the residential zone(s) by a barrier of vegetation or fencing which is opaque and not less than five (5) feet or more than seven (7) feet high and maintained in good condition.

2. Parking Area Requirements.

A. Automobile parking spaces shall be a minimum size of nine (9) feet by twenty (20) feet.

B. Handicapped parking spaces shall be a minimum of fifteen (15) feet by twenty (20) feet which includes a five (5) foot striped access aisle. Two handicapped spaces may share a single access aisle within a total space of twenty five (25) feet by twenty (20) feet.

C. Residential driveways shall not exceed twenty five (25) feet in width. Commercial driveways shall not exceed thirty five (35) feet in width. These requirements are exclusive of curb returns.

D. When parking spaces are provided in the front yard of multifamily housing they must be set back at least fifteen (15) feet from the street right-of-way line. In addition, the area between the street right-of-way line and the parking must be planted with grass, shrubs or ground cover.

E. All parking spaces shall be on the same lot which the use or building occupies, except for Churches as explained in the Parking Spaces Required table below.

F. When calculating parking requirements any fraction over ½ shall be considered as 1 additional space.

G. For any use not covered below the Planning Commission shall determine the user demand and the amount of off street parking required.

3. Parking Spaces Required.

The following table lists the required parking space for the uses identified.

USER GROUP	SPACES PER CONDITION
Residential Uses	2 - each dwelling unit
Auditoriums, Churches*, Halls Funeral Homes & Theaters	1 - each 3 seats based upon maximum seating capacity and 1 per each employee
Building Materials sales	1 - each employee and 1 per each 400 sq. ft. of retail floor area

Convalescent, Nursing and Rest Homes	1 - each 6 bed, 1 per each 4 employees and 1 per each staff or visiting doctor
Motels & Rooming Houses	1 - each guest room
Office Buildings, Lodges & Private Clubs**	1 - each 300 sq. ft. of gross floor area excluding storage & service areas
Retail Sales	1 - each 200 sq. ft. of retail or public space, whichever is greater
Restaurants**	1 - each 50 sq. ft. of dining area
Commercial, Wholesale & Warehouse	1 - each employee of largest shift and 1 per each truck to be stored on premises

\* Churches may use joint parking facilities for a maximum of 50% of the required spaces if they are located within 400 feet of the Sanctuary.

\*\* When dining facilities are included with other uses additional parking spaces will be added according to Restaurant parking standards.

#### 4. Off-Street Loading and Unloading Requirements

A. One (1) off-street loading space shall be provided for buildings whose principal use is handling and selling retail goods with a gross floor area up to and including ten thousand (10,000) square feet. One (1) additional space will be required for each additional ten thousand (10,000) square feet of gross floor area.

B. One (1) off-street loading space shall be provided for buildings whose principal use is manufacturing, repair, wholesale and similar uses with a gross floor area up to and including ten thousand (10,000) square feet. One (1) additional space will be required for each additional forty thousand (40,000) square feet of gross floor area.

C. Loading spaces for trailer trucks shall be twelve (12) by fifty (50) feet with a fourteen (14) foot height clearance and shall be designed with an adequate maneuvering area and an appropriate means of truck access to a street or alley.

#### 5. Parking and Storage of Commercial Vehicles and Trailers.

Commercial vehicles and trailers of all types, including travel, camping, hauling and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:

A. Not more than one commercial vehicle per family living on the premises, shall be permitted and in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products be permitted.

B. No trailer (either camping, hauling, travel or other type) shall be parked or stored for more than one week unless the trailer is located behind the front yard building line. A camping or travel trailer shall not be used for permanent occupancy while it is parked or stored in any area within the incorporated limits.

## SECTION IX - SIGNS

### 1. Intent and Purpose.

The City council of the City of Elm Springs recognize the valid use of signs for advertising and identifying locations within the community. The City Council also recognizes that unrestricted use of signs can create visual pollution, traffic hazards and general disarray of the community, and for these reasons feels it necessary to limit the use of signs within Elm Springs. The intent and purpose of this section is to provide for the use of signs in a way that will accommodate the use while at the same time protect the public interest and the community.

### 2. Signs Permitted Within Zoning Districts.

A. All Districts. (1) Those signs excluded from the definition of signs in this Ordinance, and (2) any signs used in conjunction with or necessary for the provisions of a public facility.

B. A-1 District. (1) Real estate and building construction signs not to exceed 32 square feet and 10 feet in height; and (2) Subdivision name signs when used as an architectural or landscape feature of the subdivision. (3) Free standing on-site signs not to exceed 50 square feet for nonresidential uses.

C. R-1 and R-2 Districts. (1) Real estate and building construction signs not to exceed 32 square feet and 10 feet in height. (2) Subdivision or development name signs when used as an architectural or landscape feature of the subdivision or development. In the R-2 Districts (1) wall mounted duplex development identification sign not to exceed 20 square feet.

D. R-0 District. (1) Real estate and building construction signs not to exceed 32 square feet and 10 feet in height. (2) Business signs attached to and within 2 feet of any wall housing the business, such signs shall not protrude above the roof line or beyond any wall surface; or (3) free standing on-site signs not to exceed 50 square feet and the height limitations of the district. Such signs shall not obstruct vision of incoming or outgoing traffic.

E. C-1 Districts. (1) Real estate and building construction signs not to exceed 32 square feet and 10 feet in height. (2) Business signs attached to and within 2 feet of any wall housing the business, such signs shall not protrude above the roof line or beyond any wall surface; or (3) free standing on-site signs not to exceed 100 square feet and the height limitations of the district in which it is located. Such signs shall not obstruct vision of incoming or outgoing traffic.

## SECTION X - SPECIAL PROVISIONS

### 1. Accessory Structures and Uses.

A. An accessory building may be constructed or placed on a lot containing a residential structure in zones R-1, R-2, R-3 and R-O but only for the purposes of private auto shelter, residential storage, or home workshop. A portable accessory building over 120 sq. ft. in area is also governed by these requirements. Every accessory building must:

- 1) Occupy less than 10% of the lot area,
- 2) Be located on the rear two-thirds of the lot, except for an auto shelter which may be even with the front of the residence,
- 3) Conform to set back requirements of the zone,
- 4) Not exceed the height of the residential structure.

B. An accessory building may, in addition to the above uses, provide shelter for a riding horse on a residential lot with a minimum area of two (2) acres provided:

- 1) The building is at least 100 feet from adjacent property lines,
- 2) No more than two horses are kept and sheltered on the property, and
- 3) Stall area does not exceed 300 square feet.



2. Agriculture.

A. The raising of cows, horses, pigs, sheep, goats, and other 4-legged nondomesticated animals in the A-1 District shall be limited to 2 such animals per acre.

B. The raising of fowl (including but not limited to chickens, turkeys, ducks, geese, emu, ostrich, etc.) in the A-1 District shall not be allowed closer to a residential area or residential zoning district than 300 feet.

3. Fences.

An ornamental fence, hedge or wall not more than three and one half (3 ½) feet in height may project into or enclose any required front or side yard. Ornamental fences, hedges or walls may project into the side yard from the front building line of the structure to the rear lot line, provided such fence and walls do not exceed a height of six (6) feet.

4. Flammable Liquids and Gases.

Flammable liquids and gasses shall comply with the Arkansas Fire Prevention Code.

5. Height Restrictions.

Public, semi-public, or public service buildings, hospitals, institutions, churches and schools, when permitted in a district, may be erected to exceed height limits specified for the district, provided all required yards are increased by one (1) foot for each foot of building height above the height limit specified on the Yard and Area Requirements Table.

6. Home Occupations.

An occupation may be carried on in a residential structure in a residential zone if compatible with the neighborhood and if the following are complied with:

A. Commercial vehicles may be approved for operation from the residence.

B. No more than two (2) rooms which are normally considered as living space may be used in the occupation.

C. Any sign to denote the business, occupation or profession, must not exceed two (2) square feet and such sign must be attached to the structure.

- D. No external display of goods and services is permitted.
- E. The occupation must be carried on only by the occupant family of said residence.
- F. No excessive noise, odor, dust or glare.

7. Service Station Pumps.

Service station pumps and pump islands may occupy the required yards provided, however, that they are not less than fifteen (15) feet from all property lines.

8. Mining, Excavation and Material Storage.

Mining, including extraction of clay, gravel or sand; quarrying of rock or stone; earth moving and excavation; depositing of construction material, clay, earth, gravel, minerals, rocks, sand or stone on the ground shall not be construed to be a permitted use in any district unless and until a Special Use Permit is issued by the Planning Commission, except for the following defined extractions and deposits:

- A. Excavations for the foundation or basement of any building or for a swimming pool for which a building permit has been issued, or deposits on the ground of any building construction materials to be used in a structure for which a building permit has been issued.
- B. Grading of any parcel of land for a permitted use where no bank is left standing and exposed of more than ten (10) feet in vertical height.
- C. Grading in a subdivision which has been approved by the City in accordance with the City's subdivision regulations.
- D. An extractive operation existing and operating as such on the effective date of this ordinance.

The Planning Commission may grant Special Use Permits, revocable and valid for specific periods of time to permit mining or extraction from, or deposits on the ground of rock, stone, gravel, sand, earth, minerals, or building or construction materials.

## SECTION XI - MOBILE HOMES

### 1. Mobile Home General

A. A mobile home or manufactured home may be parked outside a mobile home park or mobile home subdivision, on land zoned A-1, temporarily for a period not to exceed seventy-two (72) hours continuous time.

B. All mobile homes or manufactured homes shall be connected to an approved water and sewerage disposal system.

C. All utility connections to mobile homes and manufactured homes located in mobile home subdivisions shall be underground.

D. No garbage or debris shall be permitted to collect in any mobile home park or mobile home subdivision.

E. No more than one family shall be permitted to reside in any mobile home or manufactured home.

F. No weeds or tall grass shall be permitted to exist in any mobile home park or mobile home subdivision.

G. A one-time permit and fee shall be required for each mobile home or manufactured home not located in a mobile home park or mobile home subdivision. If a mobile home or manufactured home is proposed to be moved to a new location in the City of Elm Springs not in a mobile home park or mobile home subdivision, it must comply with the requirements of this Ordinance and a new permit and fee is required.

H. An annual inspection shall be required for each mobile home park and mobile home subdivision located within the City of Elm Springs before its annual permit shall be issued. This requirement also applies to existing mobile home parks.

I. The one-time permit for a mobile home or manufactured home and the annual permit for a mobile home park or mobile home subdivision shall expire upon removal of the mobile home or manufactured home from the city limits or removal of all mobile homes from a mobile home park or mobile home subdivision for a period of more than 30 consecutive days.

J. The person designated by the Mayor and City Council is hereby authorized and directed to make inspections to determine the conditions of mobile

home parks and mobile home subdivisions in order to safeguard the health and safety of occupants and the general public.

K. There shall be a 20 foot separation between mobile homes or a mobile home and any other structure (measured from exterior wall of original mobile home or exterior wall of any addition, carport, garage, covered porch or deck if one is attached thereto).

## 2. Mobile Home Subdivision

A. Mobile home subdivisions provide an opportunity for mobile home ownership of structure and lot for those mobile homes approved by the Department of Housing and Urban Development under Title VI of Public Law 90-383, USC 5401 et seq. All mobile homes so located within an approved subdivision must have the date plate attached to the unit specifying "This mobile home is designed to comply with Federal Mobile Home Construction and Safety Standards in force at the time of manufacture". Mobile home subdivisions shall fully comply with the regulations of this Ordinance and further be governed by the Subdivision Ordinance of the City of Elm Springs. Individual mobile homes located within a mobile home subdivision must be converted to permanent structures as defined in this Ordinance.

B. Mobile home subdivisions must have an area set aside and improved for recreational purposes. All subdivisions shall develop a recreational area to eight percent (8%) to the total land area of the park.

C. Internal streets and drives shall be designed for safe and convenient access to all mobile home spaces. All streets shall be dedicated to the City of Elm Springs and constructed to the standards specified by the Subdivision Regulations.

D. There shall be at least two (2) paved off-street parking spaces for each mobile home space which shall be on the same lot as the mobile home it serves.

## 3. Mobile Home Subdivision Approval Procedure

A. All licenses and permits as required by the City of Elm Springs in this or other applicable Ordinances shall be fully complied with before the subdivision is open to tenants. The owner or developer shall submit a letter of intent and the preliminary plans for development of the mobile home subdivision to the Planning Commission for review and approval prior to preparation of a final plat to insure conformity with plans and regulations. The preliminary plans submitted shall include

an approval by the Health Department for Water and Sewer (septic tank), the Power and Light Company, the Gas Company, and any other utilities or City Governmental Departments that may become involved in the final development of the site. The mobile home subdivision owner or developer shall submit evidence indicating that he is responsible for the complete cost of development including site preparation, streets, mobile home spaces, installation of all utilities, driveways, parking areas, park facilities, and recreational facilities.

B. If after reviewing the preliminary documents the planning Commission determines that a public hearing is necessary, then the Planning Commission shall schedule a public hearing on the proposed mobile home subdivision. The Planning Commission shall schedule the public hearing within 30 days of receipt of the preliminary plan and shall advertise such public hearing by one insertion in a newspaper of general circulation in Elm Springs, Arkansas, at least 7 days prior to such hearing. The owner or developer shall be responsible for all costs involved in the public hearing.

C. After review of the letter of intent, preliminary plans and other information submitted by the developer, and after the public hearing if one is held, the Planning Commission may approve these plans if it finds that all appropriate regulations have been complied with. After approval by the Planning Commission, the developer shall cause to be prepared a final plat of the proposed mobile subdivision. This plat shall be prepared by a Registered Professional Engineer in accordance with the Subdivision and Regulations of the City of Elm Springs. A building permit for construction of the subdivision cannot be issued until a final plat has been approved for the mobile home subdivision.

## **SECTION XII - ADMINISTRATION AND ENFORCEMENT**

### **1. Administrative Official.**

This ordinance shall be administered by the Code Enforcement Officer designated by the City Council. The Code Enforcement Officer shall see that the ordinance is enforced through proper legal channels. Appeals from decisions of the Code Enforcement Officer shall be made to the Board of Adjustment. The Code Enforcement Officer is empowered to carry out and conduct activities essential to the proper administration and enforcement of this ordinance including, but not limited to, the following:

A. Permits. To issue Building Permits and Certificates of Occupancy when such applications are in compliance with this ordinance. To refuse such applications and provide written notice with reasons when applications are not in compliance with this Ordinance.

B. Collections. To collect fees for building permits, variances, appeals, amendments, and special permits in accordance with this Ordinance.

C. Records. To make and keep all records necessary including records of issuance and denial of all building permits and certificates of occupancy, receipt of complaints of violations of this Ordinance and action taken and to file these records in the City Clerks office.

D. Inspections. To inspect any building or land to determine whether any violation of these regulations have been committed.

E. Enforcement. To enforce these regulations and take all necessary steps to remedy any condition found in violation. The City of Elm Springs may enjoin any individual or property owner who is in violation of this Ordinance to prevent or correct such violation. Any individual aggrieved by a violation of this Ordinance may request an injunction against any individual or property owner in violation of this Ordinance or may mandamus any official to enforce the provisions of this Ordinance.

F. Advisements. To keep the Mayor, City Council, Planning Commission, and Board of Adjustment advised of all matters, other than routine, which relate to the administration and enforcement of these regulations.

## 2. Building Permits.

It shall be unlawful to commence the construction, reconstruction, moving, demolition or structural alteration of any building until the Building Inspector has issued a building permit for such work. No permit shall be issued unless the proposed construction or use is in full conformity with this Ordinance and other applicable building laws, Ordinances and regulations. Applications for building permits shall contain the owners name and address, the builders name and address, the address of the construction, the total square footage of construction and the total estimated cost for materials and labor. The permit application shall have on it, or be accompanied by, a plan drawn to scale and including the size of the lot, setback lines and easements, the location of the building on the lot and any other information required by the Building Inspector to adequately describe the work intended. Building permits shall expire six (6) months from the date of issue unless work is in progress. The building permit fee schedule is on file in the Office of the City Clerk.

## 3. Penalty for Violation.

Any individual, group or corporation who violates any provision of this Ordinance or fails to comply thereafter with any of the requirements thereof, or who builds or alters

any building in violation of any detailed statement of submitted and approved plans hereunder, shall be guilty of a misdemeanor and shall be liable to a fine of not more than one hundred dollars (\$100.00). Each day a violation is allowed to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this Ordinance shall be placed, or shall exist, and any architect, builder, contractor, agent, engineer, person, or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be fined as provided above.

#### 4. Amendments.

Two types of amendments to this Zoning Ordinance are recognized, a revision in textual provisions of the Ordinance and a change in zoning district boundaries.

A. Amendment to Text. The City Council or the Planning Commission may initiate an amendment to the text of the Zoning Ordinance. The Planning Commission shall review any amendments initiated by either body. Upon a favorable vote of the Planning Commission a recommendation shall be submitted to the City Council for adoption by ordinance. In the event of an unfavorable vote, the Planning Commission shall not make a recommendation to the City Council.

B. Change in District Boundary. The City Council, a property owner or the Planning Commission itself can initiate a change in a zoning district boundary by submitting a petition for rezoning to the Planning Commission. When a change is being proposed by the Planning Commission or City Council, the owner or owners of the property under consideration shall be invited to the Planning Commission meeting prior to official submission to inform them of the proposed changes and solicit their views. All petitions shall contain:

- 1) Owners name and address,
- 2) Legal description of the property to be rezoned,
- 3) Layman's description of the property with street address or other common location reference known to the general public,
- 4) Existing and proposed zoning classification,
- 5) A scaled drawing of the property with proposed zoning boundary, nearest public street and adjacent property owners and
- 6) Reason for request with explanation of surrounding land uses.

#### 5. Notice.

The Planning Commission must conduct a public hearing on any petition for changing district boundaries before it can be considered for adoption by the City Council.

A notice of the public hearing shall be published in a newspaper of general circulation in the City of Elm Springs at least one (1) time fifteen (15) days prior to the hearing. Fifteen (15) days prior to the hearing, the City Clerk shall have a sign, which contains a copy of the notice and petition in a clear weather proof container stating the day, date, time and place for the hearing, placed in a conspicuous place in the street right-of-way to the property. The city shall provide the sign which shall be at least four (4) feet square and have the words "REZONING PETITION ON THIS PROPERTY" in black letters two (2) inches high at the top of a white sign. A letter or hand delivered notice shall also be sent, fifteen (15) days prior to the hearing, to each adjacent property owner including property owners across streets and alleys.

6. Hearing and Approval.

If all procedural requirements above are satisfied, the Planning Commission and City Council shall proceed as follows:

A. The Planning Commission shall conduct the public hearing on the proposed amendment to the Official Zoning Map.

B. Following the public hearing, the proposal may be approved as submitted or as modified by a majority vote of the Planning Commission to recommend adoption by the City Council.

C. A petitioner may appeal a Planning Commission disapproval to the City Council by a written request to the City Clerk. The appeal must be made within fifteen (15) days of the disapproval and must state why the Planning Commissions decision is believed to be in error.

D. The City Council may adopt, by ordinance, or reject a recommended amendment by a majority vote or may return the proposal to the Planning Commission for further study and recommendation.

E. The City Council may also adopt, by ordinance, a recommended or appealed proposal with any modifications considered appropriate by a majority vote.

F. The Planning Commission shall not reconsider any application for zoning amendment until twelve (12) months have elapsed from the final date of disapproval unless a motion to reconsider passes by at least a seventy five percent (75%) vote of the full Planning Commission. If such a motion is approved, the minutes shall reflect the reasons for reconsideration.



7. Fees.

All applications for zoning changes must be accompanied by a deposit of a handling and processing fee of seventy five dollars (\$75.00) with the City Clerk before any action on the petition can be initiated. This fee shall not be refundable regardless of approval or denial.

**SECTION XIII - BOARD OF ADJUSTMENT**

1. Creation and Appointment.

A Board of Adjustment is hereby created which shall constitute the Planning Commission as a whole. Their terms shall run concurrently with their appointment to the Planning Commission. On the effective date of this ordinance, the members of the Planning Commission that were legally in existence immediately prior to such date shall be constituted as members of the Board of Adjustment.

A. Officers. A Chairman and Vice-Chairman shall be elected annually by the Board from among its membership. The Chairman, or in his/her absence the Vice-Chairman, shall preside at all meetings, shall decide all points of order or procedure, and as necessary, shall administer oath and compel the attendance of witnesses.

B. Rules and Meetings. Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Zoning Ordinance. Meetings shall be held on a regular schedule and at such other times as the Board may determine. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact, it shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the City Clerk. The concurring vote of a two-thirds majority of the total Board members shall be necessary to revise any order or decision of the enforcement officer or to decide on any matter upon which it is required to pass under this Ordinance.

2. Powers and Duties

The Board of Adjustment shall have all the powers and duties prescribed by law and by this Ordinance, which are more particularly described as follows:

A. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made

by the administrative official in the enforcement of this Zoning Ordinance. The Board may affirm or reverse, in whole or in part, said decision of the administrative official.

B. Variances. To authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship. A variance from the terms of this Zoning Ordinance shall not be granted by the Board of Adjustment unless and until:

1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Ordinance; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Ordinance to other lands, structures, or buildings in the same district.

2) No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

3) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

4) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Zoning Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

5) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance.

6) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district.

C. Special Exceptions. In addition to the powers and duties specified above, the Board shall also have the following powers and duties to hold public hearings and decide the following special exceptions:

1) Permit the extension of a zoning district boundary where the boundary divides a lot held in a single ownership at the time of adoption of this Ordinance.

2) Interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground are at variance with those shown on the Zoning District Map.

3) Vary the parking regulations by not more than fifty percent (50%) where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by this Ordinance.

4) Permit a change in use or occupancy of a non-conforming use, provided the use is within the same or more restricted classification as the original non-conforming use.

### 3. Procedure for Appeals

A. Application. Appeals to the Board may be taken by any person aggrieved or by any officer, department, or board of the City affected by any decision of the administrative official. All appeals and applications made to the Board shall be made in writing on forms prescribed by the Board within ten (10) days after the decision has been rendered by the administrative official.

B. Public Hearing and Notice. The Board shall fix a reasonable time for the public hearing of an appeal, give public notice of the time and place thereof, as well as due notice to the parties in interest, and decide same within a reasonable time. Said public notice shall be published at least once not less than seven (7) days preceding the date of such hearing in a newspaper of general circulation in the City. The public notice shall give the particular location of the property on which the appeal is requested, as well as a brief statement of what the appeal consists. At a public hearing any party may appear in person, by agent, or by attorney.

C. Effect of Appeal. An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the Board, that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a court of record on application, and notice to the person from whom the appeal was taken.

D. Time Limit on Permits. No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than sixty (60) days unless such use is established or the erection or alteration is started within such period.

E. Fee. The fee for any appeal or application to the Board shall be \$35.00, which shall not be refundable unless the appeal is based upon interpretation and the appellant wins - in which instance the fee is refundable. Each month all fees, collected by the Administrative Official during the preceding month, shall be deposited with the City Clerk.

F. Appeals from Board of Adjustment. Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of Arkansas.

## SECTION XIV - AMENDMENTS

### 1. Amendments to Text

The City Council or the Planning Commission may initiate an amendment to the text of this zoning ordinance. The Planning Commission shall review any amendments initiated by either body. (See Section XII, 4A.)

### 2. Amendments to Zoning Boundaries

A. The City Council, a property owner or the Planning Commission may initiate a change in zoning district boundary by submitting a petition for rezoning to the Planning Commission. The Planning Commission shall hold a public hearing on a proposed amendment. (See Section XII 4B, 5, 6 and 7)

**SECTION XV - SEVERABILITY**

If any paragraph, sentence or clause of this ordinance shall be declared invalid by a court of competent jurisdiction, such determination of invalidity shall not affect the remaining portion of this Ordinance.

If any paragraph, sentence or clause of this ordinance shall be declared invalid by  
**SECTION XVI - REPEAL OF CONFLICTING ORDINANCES**

All ordinances or parts of ordinances of the City of Elm Springs in conflict with this ordinance are hereby rescinded, to the extent of any conflict.

**SECTION XVII - EFFECTIVE DATE**

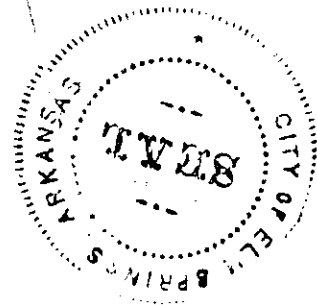
1. It has been found and is hereby declared by the City Council of the City of Elm Springs, Arkansas, in regular session assembled, that this ordinance is immediately required because the cities current zoning ordinance is wholly inadequate; in order to lessen congestion in the streets; to secure safety from fire and other dangers to promote healthful living conditions; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population to stabilize property values to insure the orderly development of the community for the general welfare of the citizens and to protect the city and it's citizens from property development detrimental to their property and way of life..

2. Therefore an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from the date of its approval.

PASSED AND APPROVED THIS 6<sup>th</sup> DAY OF January 1997.

Edward Heine  
MAYOR

Barbara Fullard  
CITY CLERK AND RECORDER



ORDINANCE NO. 97-007

COPY

CITY OF ELM SPRINGS, ARKANSAS

**AN ORDINANCE APPROVING THE CHANGE IN SETBACK BOUNDARIES FROM 500 FEET TO 300 FEET ON THE OFFICIAL ELM SPRINGS, ARKANSAS ZONING MAP, TO DECLARE AN EMERGENCY AND FOR OTHER PURPOSES.**

Where as, it is the desire of the City of Elm Springs to alter the existing zoning map to lessen the distance of certain setbacks enumerated on the existing official zoning map of the City of Elm Springs; and,

Whereas, the City Planning Commission has given its due consideration and approval to a revised official zoning map including a change in certain setbacks,

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS;

SECTION 1: The new zoning map indicating a change in certain setbacks from 500 feet to 300 feet is hereby approved as the new official zoning map of the City of Elm Springs, Arkansas.

SECTION 2: Said map shall remain on file with the City Clerk for public inspection.

THEREFORE, an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from the date of its approval.

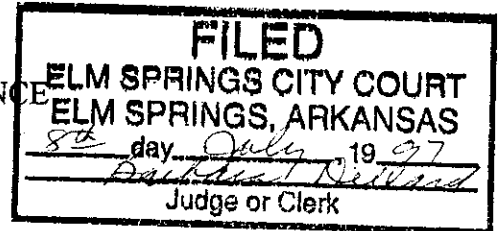
PASSED AND APPROVED THIS 2<sup>nd</sup> DAY OF June, 1997.

Edward Thorne  
MAYOR

ATTEST: Barbara Dillard  
CITY CLERK

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ELM SPRINGS, ARKANSAS



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ELM SPRINGS SUBDIVISION ORDINANCE

ELM SPRINGS, ARKANSAS

ORDINANCE NO. 97-009

AN ORDINANCE REGULATING THE SUBDIVISION OF LAND WITHIN THE CITY OF ELM SPRINGS, ARKANSAS AND ITS AREA OF PLANNING JURISDICTION, REQUIRING AND REGULATING THE PREPARATION AND PRESENTATION OF PRELIMINARY AND FINAL PLATS FOR SUCH PURPOSES; ESTABLISHING MINIMUM SUBDIVISION DESIGN STANDARDS; PROVIDING MINIMUM IMPROVEMENTS TO BE MADE OR GUARANTEED TO BE MADE BY THE DEVELOPER; SETTING FORTH THE PROCEDURE TO BE FOLLOWED BY THE PLANNING COMMISSION IN APPLYING THESE RULES, REGULATIONS AND STANDARDS; AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

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

1. GENERAL PROVISIONS

A. Purpose

The purpose of this ordinance is to set forth the procedures, requirements, and minimum standards governing the development and subdivision of land under the jurisdiction of the Elm Springs Planning Commission (hereinafter referred to as the "Planning Commission").

B. Authority

This ordinance is adopted in accordance with the authority granted by Act 186 of the 1957 General Assembly of the State of Arkansas, as amended. (ACA 14-67-401, et seq)

C. Compliance

The rules and procedures hereinafter set forth must be complied with before any transfer of interest in property constituting a subdivision as defined in Article 1, Section E of this Ordinance or before the transfer of any interest in property resulting in the need for access or utilities. Any attempted transfer not in compliance with the rules and procedures of this Ordinance may not be legally filed on record in the office of the County Recorder.

D. Jurisdiction

This Ordinance shall apply to all land within the Planning Area of the City of Elm Springs as filed in the office of the County Recorder.

E. Definitions

For the purpose of this ordinance, certain terms used herein are defined as follows:

Alley: A minor public way dedicated to public use for utility easements and vehicular access to the back or the side of properties abutting a street.

Backing Lot: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot; to which the property owner is denied access to one of the streets.

Building: See Structure.

Buffer: Any area of land or an open area used to provide a physical separation between and enhance the compatibility of different types of land use.

Building Line: A line or lines designating the area in which buildings may be erected. Said building line(s) are parallel to property lines and/or setback lines.

Comprehensive Plan: The Comprehensive or Land Use Plan of the City of Elm Springs.

Contour Line or Topography: Lines on a map or plat identifying points of equal elevation.

Contour Intervals: Topography map lines connecting points of equal elevations.

County Planning Board: The Washington County Planning Board.

Cul-de-sac: A minor street having one end open to traffic and being terminated at the other end by a vehicular turnaround.

Dead-End Street: A street having one end open to traffic and being permanently terminated at the opposite end.

Dedication: Land and improvements offered to the city, county or state and accepted by them for public use, control and maintenance.

**Developer:** Any person, firm or corporation engaged in the development of land, and/or in the dividing, subdividing, or resubdividing of land into lots or parcels for the purpose of conveyance within the scope and application of these regulations.

**Development of Land:** Includes but is not limited to the provision of access to lots and parcels, the extension or provision of utilities except for agricultural purposes, the subdivision of land into lots and blocks, or the parceling of land (including lease or rent) resulting in the need for access and utilities.

**Development Plan:** A comprehensive drawing showing all proposed improvements to a piece of property such as streets, parking lots, buildings, drives, signs, utilities, drainage, grading, and by size and location.

**Duplex:** A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

**Easement:** A grant of right of use or privilege for general or specific purposes to the public, a corporation or persons made by the owner of the property, and properly filed with the Circuit Clerk, Washington County. Access easements shall be a minimum of 30 feet in width.

**Engineer:** A registered professional engineer, registered in Arkansas and who is qualified to design streets, water and sanitation facilities, to supervise the construction of the same and perform general subdivision services.

**Enforcing Officials:** The administrative officer or officers designated by the City Council to make inspections and investigations.

**Health Department:** The Washington County Health Department and the State Health Department.

**Improvements:** Physical changes made to property to prepare it for development such as street grading, drainage structures, street surface, sidewalks, curbs, gutters, utility lines, bridges and similar items.

**Land Surveyor:** A person who is registered in the State of Arkansas to make land surveys.

**Lot:** A division of land intended as a unit for the transfer of ownership for development.

**Lot, Corner:** A lot of which at least two (2) adjacent sides abut on intersecting streets.

**Lot, Double Frontage:** A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

**Lot, Split:** A division of a lot, tract or parcel of land, for the purpose of transfer of ownership or development which includes: The provision of access to lots and parcels; the extension or provision of utilities; and the parceling of land resulting in the need for access and utilities.

**Lot, Tandem:** A lot meeting minimum size standards but without access to a public street.

**Master Street Plan:** A plan adopted by the Planning Commission and accepted by the City Council classifying and locating certain streets within the planning area jurisdiction to be reserved, according to their future function and establishing minimum rights-of-way according to that function.

**Open Space:** Land, including parks, recreation areas, school sites, community or public building sites, and other lands not intended for automobile use, which is dedicated or reserved for acquisitions for non-building use by public groups or private owners in common or by individuals.

**Parcel:** An area of land under one ownership.

**Parking, Off-Street:** An area, enclosed or unenclosed, permitting ingress or egress for vehicular storage.

**Plat, Final:** A complete and exact subdivision plat, prepared for official recording as required by statute, to define property boundaries and dedicated streets and other improvements and executed by the owner or owners of said real estate.

**Plat, Preliminary:** A preliminary plat for a subdivision shall be a formal plan showing outside lot dimensions, indicating prominent existing features of a tract and its surroundings, the general layout of the proposed subdivision and shall meet the requirements outlined herein.

**Protective Covenants:** Property restrictions established by the developer.

**Right-Of-Way:** The land opened, reserved, or dedicated for a street, walk, drainage, or other public purposes.

**Roadway Width or Surface Width:** That portion of any street designated for vehicular traffic and, where curbs are laid, that portion of the street between the curbs or shoulders.

**Setback Line:** A line or lines generally parallel to property line(s) intended to restrict the placement of structures whether established by a Zoning Ordinance or Subdivision Ordinance.

**Service Road:** A minor street auxiliary to and located on the side of major streets for service to abutting properties and adjacent areas and for control or access and including frontage roads and streets.

**Street:** A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel which may also be used to provide space for sewers, public utilities, trees, and sidewalks.

**Street, Arterial:** A street or road of considerable continuity which serves or is intended to serve as the principal trafficway between separated areas or districts and which is the main means of access to the primary street system or expressways.

**Street, Collector:** A street which in addition to serving abutting properties, intercepts minor streets, connects with community facilities and carries neighborhood traffic to the major arterial street system.

**Street, Frontage:** A minor street which is generally parallel to and adjacent to a major highway or railroad right-of-way and which provides access to abutting properties and protection from through traffic.

**Street, Local:** A street used primarily to provide access to abutting properties.

**Structure:** Anything inanimate, constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including roof overhangs, carports, garages, porches and other similar structures.

**Subdivision:** Any division of unplatted land or any resubdivision of platted land within the planning area jurisdiction when any or all of the following is involved:

- a. Sale, whether immediate or future.
- b. The construction or location of new buildings, (dwelling or business structures).
- c. The dedication of a new street, or the expansion of an existing street, by the property owner, when done in conjunction with either sale or new construction referred to above. However, the following exceptions will be noted.

1. A division of land principally for agricultural purposes into not more than two new lots or parcels and not involving a new street shall not be deemed a subdivision.

Yard: The portion of a lot established by the building lines as minimum open space and intended to be unobstructed and unoccupied by any structure, however, such things as fences, poles, posts, fence walls and other customary year accessories, ornaments, and furniture may be permitted in any yard subject to height and visibility limitations.

Yard, Front: That minimum required open space extending between side lot lines from the front lot line to the nearest point of any building.

Yard, Rear: That minimum required open space extending between side lot lines measured from the rear lot line to the nearest point of any building.

Yard, Side: That minimum required open space extending from the front yard line to the rear yard line on both sides of any lot, measured from the side lot line to the nearest point of building.

Zoning: The zoning ordinance or regulations of the governmental unit in whose jurisdiction a property is located.

## 2. PROCEDURES

### A. Pre-Platting Procedures

Conference: Any person intending to develop land within the meaning of the Ordinance may, before preparation of a preliminary plat, request a conference with the Code Enforcement Officer and/or the Planning Commission for the purpose of ascertaining the applicable planning requirements. A sketch plan of the proposed subdivision shall be presented for review at this conference.

Sketch Plan: The sketch plan may be a free-hand drawing superimposed upon a print of a map or an aerial photograph, and shall generally locate the following:

- a. Street pattern proposed and existing street or right-of-way.
- b. Location of all bordering streets.
- c. General size and shape of lots.
- d. Topography

- e. Legal description of property.
- f. Proposed land uses and identity of adjacent land owners.
- g. Location of existing utilities.
- h. Existing water courses and flood plains.
- I. Existing and/or proposed tree cover.
- j. Existing adjacent developments.
- k. Any additional information the developer feels is pertinent.
- l. Name and address of all owner(s) and developer(s).
- m. Any other information the Code Enforcement Officer or Planning Commission may request.

**B. Preliminary Plat Procedures**

Submission of Preliminary Plat: For each proposed subdivision the developer shall prepare and submit to the Planning Commission fifteen copies of the preliminary plat prepared by a registered professional engineer and/or land surveyor. The preliminary plat shall be filed with the City Clerk and/or the Code Enforcement Officer at least 30 days prior to the date of the meeting of the Planning Commission at which action is desired.

Information Required on Preliminary Plat: The following information, as well as, any additional information the Planning Commission may require, shall be clearly shown on the preliminary plan:

- a. The name of the proposed subdivision, which shall not duplicate the name of any other existing subdivision within the territorial jurisdiction of the City of Elm Springs.
- b. The boundary lines of the proposed subdivision as determined by an accurate field survey. Length and bearings of courses shall be shown.
- c. The name and address of each owner, developer, and surveyor.
- d. The total acreage in the subdivision.
- e. Date of preparation, scale (1" = 200', 1" = 50') and north arrow.

- f. Dimensions of all streets, alleys, easements, blocks, lots and parcel lines.
- g. The location, name and pavement cross section of each existing and/or platted streets and utility easements, and permanent buildings within the subdivision.
- h. Location of railroad right-of-way and any other property owned by utilities.
- I. Topography, referred to U.S.G.S. datum.
- j. All areas to be retained as permanent open space shall be designated as such.
- k. All areas subject to flooding as determined by engineering studies or which have a history of flooding.
- l. Location and type of all existing utilities within the plat, existing wells, abandoned wells, and dry holes, cisterns etc.
- m. The zoning of such property, if any.
- n. Indicate lots on which uses other than residential are proposed.
- o. Building set-back lines.
- P. Minimum proposed dwelling size in heated square feet.

Additional Information to be Submitted attached to the Preliminary Plat

- a. An area map showing all existing highways, streets, and corporation lines adjoining the proposed subdivision.
- b. Any proposed restrictive covenants for the lots to be sold.
- c. The responsible entity for the maintenance and operation of any building, parks, and other areas held for the common use of the residents of the subdivision shall be designated and the method of securing financing for such maintenance and operation shall be indicated.
- d. The types of soils found in the platted area according to the United States Department of Agriculture or other reliable source.
- e. Any other information the Code Enforcement Officer or Planning Commission may request.



- f. All adjacent properties or subdivisions with owners names and addresses (if not platted), including corresponding deed book and page numbers.
- g. A signature block for technical review representatives with space for names and telephone numbers.
- h. A vicinity map at a scale appropriate to show the relationship of the development with surrounding improvements and communities, and other information, showing adjoining subdivisions or individual lots.

Preliminary Plat Review:

a. Upon receipt of the preliminary plat the Code Enforcement Officer shall check the plat to determine whether all information required by this section is included on the plat. When he/she is satisfied that all such necessary information is included, the Code Enforcement Officer shall transmit copies of the plat to each member of the Planning Commission retaining a permanent copy for the City. The developer shall transmit to each of the persons or agencies hereinafter listed one copy of the preliminary plat.

1. The appropriate representative of each of the following utility services: water, sewer, cable TV, gas, telephone, and electric.
2. The Northwest Arkansas Regional Planning Commission.
3. The Washington or Benton County Planning Board if outside the city limits.
4. The Elm Springs Mayor, Fire Chief, and Police Chief.

b. Within 30 days after review by the Planning Commission the developer shall be notified in writing whether the preliminary plat is approved. If the plat is not approved, the reason shall be given in writing. Failure of the Planning Commission to act on a preliminary plat within 60 days from the date of application shall be deemed approval of the preliminary plat and is authorization of improvements as specific hereinafter.

c. If the developer desires to immediately develop only a portion of the total area the Planning Commission shall require preliminary plat approval for the entire area and a final plat shall be required only for the portion of the total area intended for present development, with additional final plat approval for the other portions of the area if they are developed.

d. The approval of the preliminary plat shall be effective for a period of one year and thereafter as long as work is actively progressing on the installation of required improvements. If the final plat has not been submitted for approval within this period a preliminary plat must again be submitted for approval.

C. Final Plat Procedures:

Submission of Final Plat: For each proposed subdivision the developer shall prepare and submit to the Code Enforcement Officer, ten copies of a final plat prepared by a registered professional engineer and/or land surveyor. The final plat shall be filed with the City Clerk and/or Planning Commission secretary at least 21 days prior to the date of the meeting of the Planning Commission at which action is desired (Note the maximum filing size at the Washington or Benton County Courthouse is 18" x 23"). The final plat shall not be considered for acceptance until all improvements are complete and the as-built plans have been submitted to the Code Enforcement Officer for his/her examination, and the plat fees are paid.

Information Required on Final Plat: The following information, as well as, any additional information the Planning Commission may require, shall be clearly shown on the final plat.

- a. The name of the proposed subdivision.
- b. The boundary lines of the proposed subdivision as determined by accurate field survey by a registered surveyor of the State of Arkansas. Length and bearings of courses shall be shown.
- c. The total acreage of the proposed subdivision.
- d. Date of preparation, scale (1" = 200', 1" = 50') and north arrow.
- e. Dimensions of all streets, alleys, easements, block, lot, parcel lines and building line and/or setback line.
- f. Location of monuments.
- g. Location of railroad right-of-way and any other property owned by utilities.
- h. Name of all streets.
- I. Dedication by owner of all streets, alleys and lands for public use.
- j. All easements and right-of-way granted by the owner.

- k. Street design and curvature characteristics.
- l. The following supporting data:
  - 1. Certificate of ownership and dedication.
  - 2. Certificate of Accuracy -- Engineer and/or Surveyor.

Approval: The Planning Commission shall approve or disapprove the final plat within 30 days after its submission. If disapproved, the reasons therefore shall be recorded in the minutes of the Planning Commission and shall be transmitted to the applicant in writing. Failure of the Planning Commission to act within 90 days from the date of the application shall be deemed approval of the plat.

D. LOT SPLIT PROCEDURE

To allow for the transfer of land ownership without requiring an official plat the following lot split procedure is created. A lot split request shall include a survey with a legal description and scaled drawing of the parcel being split showing dimensions of the new parcels created and shall include all rights-of-way and easements required for utilities and drainage. This survey shall be filed with the transfer documents if the request is approved. Two kinds of land ownership transfer are permitted under this procedure.

- a. Transfer of land in a residential lot, with frontage on an existing dedicated road which meets the Major Street Plan standards. No parcel shall be less than the minimum lot size required for sewer or septic tank installation or required by the governing zoning district.
- b. Transfer portions of platted lots to correct errors in survey, building placement which created sub-standard yard areas, or any other errors of a similar nature. To allow for the increase in lot area by attaching portions of other lots or tracts, provided the part being split off and attached to another tract is less than the minimum lot standard, and the remainder is greater than five (5) acres.
- c. A fee of \$75.00, shall be paid to the City Clerk prior to the processing of any lot split request. Said fee is not refundable or transferable.

In the case of splits involving tracts larger than a residential lot, no more than 2 such splits shall be allowed before a subdivision plat is required. The deed or other instrument for transfer shall be brought to the enforcement officer for processing. The enforcement officer shall check to see that all subdivision requirements, such as necessary easements, right-of-ways dedication, etc. are being met. The lot split may also be reviewed by the Technical Review Committee. Once the lot split has met all requirements the enforcement officer should stamp the deed of instrument of transfer indicating the Planning Commission's approval and have it signed by the Secretary of the Planning Commission or some other elected officer. The stamp should indicate the lot split number and the date of approval.

The end result of the lot split should not create any lots which would be below the area standard adopted by the City of Elm Springs.

### 3. DESIGN STANDARDS

These standards are intended to help the developer achieve development that is safe, efficient, pleasant, and economic to build and easy to maintain.

#### A. Variations

If the provisions of these standards are shown by the developer to cause undue hardship as they apply to his proposed subdivision, the City Planning Commission may grant a variance to the developer from such provision, so that substantial justice may be done and the public interest secured; provided that the variation will not have the effect of nullifying the intent and purpose of this ordinance.

In granting variances and modifications, the Planning Commission may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

#### B. Fitness for Development

Based on topographic maps, soil surveys prepared by the Department of Agriculture and drainage information from the comprehensive plan, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property. The Planning Commission may require the developer to establish building lines to allow for future acquisitions of right-of-way for arterial streets.

#### C. Street Design Principles

Extension: All street extensions shall be projected at the same or greater width, but in no case less than the standards.

**Substandard widths:** Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum street width standards.

**Street names:** Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names must be used which will not duplicate or be confused with existing names.

**Tangents:** A straight tangent at least one hundred feet (100') long shall separate reverse curves.

**Access:** Safe and adequate vehicular and pedestrian access shall be provided to all parcels.

**Access Control:** Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes.

**Through Traffic:** Local street systems should be designed to minimize through traffic movements.

**Speed:** Local streets should be designed to discourage excessive speeds.

**Pedestrian:** Pedestrian-vehicular conflict points should be minimized.

**Economy:** A minimum amount of space should be devoted to street uses.

**Traffic Conflict:** There should be a minimum number of intersections.

**Street Pattern:** The arrangement of local streets should permit economical and practiced patterns, shapes and sizes of development parcels.

**Topography:** Local streets should be related to topography.

D. **Intersections**

1. Streets shall be planned and designed to provide a safe system for present and prospective traffic and shall be approved by the traffic superintendent.
2. Proposed streets shall be planned in such manner as to provide safe access to proposed lots.

## 3. Street and/or Intersection Design Standards:

	<u>Ordinary</u>	<u>Hilly</u>
Approach speed	25 mph	20 mph
Grades within 100'	Flat	4%
Minimum angle	75 degrees	75 degrees
Minimum curb radius		
Minor streets	30'	30'
Collector streets	50'	50'
Minimum jogs		
Minor streets	125'	125'
Collector streets	150'	150'
Minimum Cul-de-sac radius - single family	50'	
multi family	65'	
Cul-de-sac max. Length	600'	
Grades-maximum percent	10%	15%
Intersection to curb cut minimum distance	20'	

E. Residential Blocks

**Width:** Blocks shall be two (2) tiers of lots wide, except where topography, highway, railroads, utility lines or other physical features will not permit.

**Length:** Blocks shall be at least four hundred (400) feet in length, but no longer than one thousand (1000) feet in length.

F. Utility Easements

Easements at least twenty feet (20') wide shall be centered along rear lot lines and along side lot lines where needed to provide for utility lines and surface drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or where drainage problems may occur.

G. Residential Lots

The use and design of lots shall conform to the provisions of the zoning ordinance where zoning is in effect.

When no zoning applies, the following standards shall govern unless in conflict with more stringent local or state regulations applicable to the use of individual disposal systems.

Lot minimum standards:

Area	1 acre
Width	100 ft.
Side Yard	10 ft.
Rear Yard	25 ft.
Front Yard	50 ft.

Size: The size and shape of the lots shall not be required to conform to any stipulated pattern, but insofar as practicable side lot lines should be at right angles to straight street lines or radial to curved street lines. When a tract of land is subdivided into larger than normal lots, such lots shall be so arranged as to permit the logical location and opening of future streets and appropriate re-subdivision of the lots, with provision for adequate utility connections for such resubdivision.

4. IMPROVEMENTS

A. GENERAL

Construction Plans: Construction plans and specifications prepared by a registered professional engineer showing all necessary data for all public and private improvements to be installed, shall be submitted to the Planning Commission. In addition to the plans the engineer shall certify in writing that all plans and specifications have been prepared in conformance with or in excess of the applicable requirements of the City. The Planning Commission with the approval of the City Council reserves the right to retain a disinterested engineer for advise and review purposes concerning any plans submitted at the developers expense.

As-Built Plans: Following the completion of all improvements the developer shall submit two copies of the As-Built Plans to the Code Enforcement Officer for examination. Sufficient measurements shall be provided to allow for locating the improvements and services. All As-Built Plans shall be kept on file at the City Hall permanently.

Acceptance of Improvements: The developer shall be responsible for the installation of all improvements. Once the developer and engineer have certified that all improvements were constructed in keeping with or in excess of the City's standards and in keeping with good engineering practices, the City shall accept the improvements.

B. Streets

Standards: Refer to Ordinance No. ~~96-7-2~~ for the minimum standards for street improvements.

Signs: The developer shall be responsible for acquiring and placing all street signs. Street names may be provided by the developer subject to the approval of the Planning Commission. Street signs shall be placed at two opposite points of all four-way intersections and at one point at all three-way intersections.

Streetlights: Streetlights shall be installed at intervals not to exceed two hundred fifty (250) feet. Streetlight locations or placement shall be indicated on the preliminary plat for review and approval by the planning commission. Streetlights shall be High Pressure Sodium type. Other types of lighting are subject to approval by the planning commission.

C. Utilities

All utilities shall be installed underground, including electric, cable, telephone, and any other utility services or extensions necessary to serve the subdivision. The developer shall provide any necessary conduits under roadways requested by the utility provider to avoid future street cuts or borings. Tracer wires shall be installed along with all water, gas, and sewer lines as necessary.

Water: Construction plans showing the water distribution system, pipe sizes, valve location and fire hydrants shall be submitted to the Planning Commission. All subdivisions within 1320 feet of an approved public water supply shall connect with such water supply and make it available to each lot in the subdivision. All plans and connections shall comply with the regulations of the State Board of Health. If terrain does not permit, variance may be requested.

Sewer: Construction plans and profiles of all sanitary sewer systems including grades and pipe sizes shall be submitted to the Planning Commission. All subdivisions within 1320 feet of an approved public sewer system shall connect to such system and make it available to each lot. All plans and connections shall comply with the regulations of the State Board of Health. If terrain does not permit, variance may be requested.



**Fire Hydrants:** Fire hydrants shall be installed at intervals of one thousand (1000) feet and no more than five hundred (500) feet from any dwelling.

**Storm Drainage:** All storm drainage systems shall be designed so that concentrated runoff will be discharged onto adjacent property only in existing natural streams, creeks or drainage courses. The developer's engineer shall submit a statement upon request concerning the effect of the proposed development on the downstream flooding problem. If in the Commission's opinion, the statement seems to warrant corrective action, the Commission may require the developer to take such action as is deemed necessary to insure protection to downstream property. The Planning Commission reserves the right to require an independent drainage study at the developers expense

- D. **MAINTENANCE GUARANTEE:** An acceptable maintenance bond shall be provided in the amount of the contract price of the improvement against defects in workmanship and materials for a period of five years from the date of acceptance of such improvements. The bond shall be filed with the city administration prior to the acceptance of the improvements by the City.

## 5. OFF - SITE IMPROVEMENTS

- a. The developer shall be required to install off-site improvements, where the need for such improvements are created in whole or in part by the proposed development. Any required off-site improvements shall be installed according to City standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational connection to the needs created by the development.
- b. When a proposed development has access to paved streets or roads only by way of substandard or unimproved roads or streets leading from the development to the paved streets or roads, the developer shall be responsible for the cost of improving the substandard access roads or streets to existing city standards.
- c. Off-site drainage improvements shall be required whenever a proposed development causes the need for such improvements.
- d. The Planning Commission may table or reject any development until all funding for off-site improvement is agreed to by all concerned parties.

## 6. ADMINISTRATION

### A. Interpretation

When a developer or property owner disagrees with an interpretation of this ordinance by the Code Enforcement Officer, it may be appealed to the Planning Commission for a decision. If the disagreement cannot be resolved by the Planning Commission, it may be appealed to the City Council.

### B. Severability

If any section, paragraph, clause, phrase, or part of this subdivision ordinance is for any reason invalid, such decision shall not affect the validity of the remaining provision of this ordinance and the application of those provisions to any person or circumstances shall not be affected thereby.

### C. Enforcement

In order to carry out the purposes of this code and to assure an orderly program of land development after the effective date of this ordinance, the provision of this ordinance shall be administered by the Code Enforcement Officer of the City of Elm Springs.

- a. No plat of any tract of land within the planning area jurisdiction of the Planning Commission shall be accepted by the County Recorder for filing unless the plat has been approved by the Planning Commission.
- b. No conveyance by metes and bounds of tracts coming under the definition of subdivision without compliance with the applicable provision of this ordinance or amendments thereto shall be permitted. The purpose of this provision is to prevent any attempt to circumvent this ordinance by metes and bounds without taking the necessary steps for filing an approved plat.
- d. Any requirements necessary for the proper development of land or for the public safety, health, and general welfare, not specifically covered by this or any other City land use ordinances, shall be determined by the Planning Commission.
- e. No structure shall be erected, moved, added to, or structurally altered, without a building permit. All applications for building permits shall provide such information as is necessary to determine conformance with these regulations. No building permits shall be issued in any proposed subdivision until the final plat for the subdivision has been approved and accepted by the City Council.

D. Variances

If any of the provisions of this ordinance are shown by the developer to cause undue hardship as they apply to this subdivision, the Planning Commission may grant a variance to the developer; provided said variance will not have the effect of nullifying the intent and purpose of this ordinance. In granting a variance, the Planning Commission may impose such additional conditions as will, in its judgment, secure substantially the objectives of this ordinance and not cause due hardship. A written request for a variance shall be submitted to the City Clerk or the Code Enforcement Officer 21 days prior to the date of the meeting at which it is to be considered. A fee of \$50.00 shall be paid at the time of submission of the request.

E. Amendments

The City Council or the Planning Commission may initiate an amendment to the text of the Subdivision Ordinance. The Planning Commission shall review any amendments initiated by either body. Upon a favorable vote of the Planning Commission a recommendation shall be submitted to the City Council for adoption by ordinance. In the event of an unfavorable vote, the Planning Commission shall not make a recommendation to the City Council.

F. Fees

All fees are payable at the time of submission of the plans, and shall be paid to the City Clerk or Code Enforcement Officer. Fees are not refundable or transferable.

- a. Sketch Plan: For each sketch plan submitted, the Planning Commission shall collect a fee of \$75.00 or \$5.00 per lot, whichever is greater.
- b. Preliminary Plat: For each preliminary plat submitted, the Planning Commission shall collect a fee of \$250.00 or \$5.00 per lot whichever is greater.
- c. Final Plat: For each final plat submitted the Planning Commission shall collect a fee of \$250.00 or \$7.50 per lot whichever is greater.

G. Penalty Clause

Violation of the provisions of this code or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or special exceptions) shall constitute

a misdemeanor. Any person who violates this code or fails to comply with any of its requirements shall upon conviction thereon be subject to a fine not to exceed five hundred dollars (\$500.00) for any one specified offense or violation. If the matter prohibited or rendered unlawful is, in its nature, continuous in respect to time the fine or penalty for allowing the continuance thereof, shall not exceed two hundred and fifty dollars (\$250.00) for each day that the same be unlawfully continued.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, engineer, agent or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

H. Repealing Clause

All ordinances or part of ordinances of the City of Elm Springs in conflict herewith are specifically repealed, to the extent of the conflict.

I. Emergency Clause

It has been found and is hereby declared by the City Council, that this ordinance is immediately required in order: to lessen congestion in the streets; to secure safety from fire and other dangers; to promote healthful living conditions; to prevent the unsanitary use and development of land; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public facilities; to stabilize property value and to insure the orderly development of the community for the general welfare of the citizens.

Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the public peace, health and safety shall be in full force and effect from the date of its passage and approval.

PASSED AND APPROVED THIS 7<sup>th</sup> DAY OF July, 1997.

Edward Threse  
MAYOR

Barbara Dillard  
CITY CLERK

I CERTIFY THIS IS A TRUE AND  
CORRECT COPY OF THE ORIGINAL DOCUMENT.  
DATED THIS 27<sup>th</sup> DAY OF April  
19 98 Barbara D. Bell  
COURT CLERK

**ORDINANCE NO. 98-03**

AN ORDINANCE ENTITLED "AN ORDINANCE AMENDING  
ORDINANCE NO. 97-001," THE SAME BEING THE ZONING  
ORDINANCE OF THE CITY OF ELM SPRINGS, ARKANSAS,  
AND THE PLAT PERTAINING THERETO, AND FOR OTHER  
PURPOSES

WHEREAS, the Elm Springs Planning Commission of the City of Elm Springs, Washington County, Arkansas, gave notice required by law and set a hearing date of July 28, 1997, which hearing was re-set for September 8, 1997, for hearing the matter of redistricting the hereinafter described tract of land:

Part of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section Twenty-five (25), Township Eighteen (18) North, Range Thirty-one (31) West in Washington County, Arkansas, described as beginning at the Northwest corner of said Section 25; thence North 89°58'22" East 1380.29 feet to the centerline of Weston Road; thence with said centerline South 06°33'49" East 68.02 feet; thence South 05°07'18" West 141.48 feet; thence South 10°01'43" West 94.70 feet; thence from said centerline South 87°37'51" West 201.75 feet; thence South 06°06'09" West 230.37 feet; thence South 86°20'06" East 167.67 feet to said centerline of Weston Road; thence with said centerline South 13°35'46" West 255.43 feet; thence from said centerline North 76°24'14" West 35.00 feet; thence South 77°49'22" West 658.09 feet; thence South 00°17'45" West 387.97 feet to the South line of the Northwest Quarter (NW $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of said Section 25; thence with said South line North 89°52'13" West 313.97 feet; thence South 00°07'47" West 33.00 feet to the centerline of Water Road; thence with said centerline of Water Road South 81°33'52" West 30.48 feet; thence from said centerline North 00°17'45" East 397.52 feet; thence North 89°42'15" West 223.63 feet; thence North 00°17'45" East 954.14 feet to the point of beginning, containing 29.20 acres, more or less. Subject to the 35.0 feet right-of-way from existing centerline of Weston and Water Roads and any other easements of record or fact.

AND, WHEREAS, after giving notice as required by law, the Elm Springs Planning Commission of the City of Elm Springs, Arkansas, held a hearing; heard arguments for and against the requested rezoning; whereupon the Elm Springs Planning Commission, feeling

that the area described herein should be redistricted and changed from Agricultural (A-1) to Low Density Residential (R-1) and that the purpose of the Zoning Ordinance would be more properly carried out by such redistricting; and that unless granted, citizens of Elm Springs will suffer irreparable harm and damage, as well as being substantially deprived of the use of their property.

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

Section 1: Ordinance No. 97-001, the Amendments thereto, and the Zoning Plat pertaining thereto, of the City of Elm Springs, Arkansas, are hereby amended by rezoning the hereinafter described tract from Agricultural A-1 to Low Density Residential R-1, as follows:

Part of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section Twenty-five (25), Township Eighteen (18) North, Range Thirty-one (31) West in Washington County, Arkansas, described as beginning at the Northwest corner of said Section 25; thence North 89°58'22" East 1380.29 feet to the centerline of Weston Road; thence with said centerline South 06°33'49" East 68.02 feet; thence South 05°07'18" West 141.48 feet; thence South 10°01'43" West 94.70 feet; thence from said centerline South 87°37'51" West 201.75 feet; thence South 06°06'09" West 230.37 feet; thence South 86°20'06" East 167.67 feet to said centerline of Weston Road; thence with said centerline South 13°35'46" West 255.43 feet; thence from said centerline North 76°24'14" West 35.00 feet; thence South 77°49'22" West 658.09 feet; thence South 00°17'45" West 387.97 feet to the South line of the Northwest Quarter (NW $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of said Section 25; thence with said South line North 89°52'13" West 313.97 feet; thence South 00°07'47" West 33.00 feet to the centerline of Water Road; thence with said centerline of Water Road South 81°33'52" West 30.48 feet; thence from said centerline North 00°17'45" East 397.52 feet; thence North 89°42'15" West 223.63 feet; thence North 00°17'45" East 954.14 feet to the point of beginning, containing 29.20 acres, more or less. Subject to the 35.0 feet right-of-way from existing centerline of Weston and Water Roads and any other easements of record or fact.

Section 2: Emergency Clause. The City Council determines that an emergency exists and that this Ordinance, being necessary for the preservation of the health, safety and welfare of the citizens of Elm Springs, Arkansas, shall be in effect from and after its

approval, passage, publication and the recording of a certified copy thereof with the Recorder of Washington County, Arkansas.

PASSED AND APPROVED this 27<sup>th</sup> day of April, 1998.

*Edward W. Moore*  
MAYOR

ATTEST:

*Barbara Dillard*  
CITY CLERK

FILED FOR RECORD

ORDINANCE NO. 98-11

'99 MAR 8 AM 9 28

WASHINGTON CO AR  
K. HARRISS

AN ORDINANCE AMENDING ORDINANCE NO. 97-009, THE SAME BEING THE ORDINANCE REGULATING THE SUBDIVISION OF LAND WITHIN THE CITY OF ELM SPRINGS, ARKANSAS, AND ITS AREA OF PLANNING JURISDICTION.

WHEREAS, the City Council of Elm Springs, Arkansas deems it necessary from time to time, to adjust certain standards for development, which could be implemented in keeping with the City's adopted Subdivision Ordinance; and for the purposes of promoting the health, safety, and general welfare of the citizens of Elm Springs, Arkansas; and

WHEREAS, the Elm Springs City Council has prepared an ordinance amending Ordinance No. 97-009, the same being The Ordinance Regulating the Subdivision of Land in the City of Elm Springs, Arkansas and its area of planning jurisdiction.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

SECTION 1. Ordinance No. 97-009 of the City of Elm Springs, being an ordinance providing for regulation of the subdivision of land within the City of Elm Springs and its area of planning jurisdiction and for other purposes is amended as hereinafter set forth.

SECTION 2. Section 2-B, Preliminary Plat Procedures, of said ordinance No. 97-009 is hereby amended by adding the following clause to, Preliminary Plat Review - Paragraph A.

The Code enforcement officer shall:

1. Publish a "Notice of Public Hearing" in a newspaper of general circulation at least one time, 15 days prior to the Planning Commission meeting at which the preliminary plat is to be considered. The notice shall set forth the time and place of said hearing, and the purpose of the hearing.
2. Notify the adjacent property owners by certified mail that a hearing will take place to consider the preliminary plat, and the location, date, and time of said hearing.
3. Post one sign on the property subject to the proposed subdivision, 15 days prior to the hearing, to contain the words: "SUBDIVISION REQUESTED ON THIS PROPERTY".
4. The planning commission will then conduct a public hearing on the proposed Subdivision on the specified date and time. The Owner/Developer must be present at the public hearing at which time the public will be invited to comment on, or argue for or against the proposed subdivision.
5. The Owner/Developer shall bear any and all costs incurred for the publication, posting, and notification relating to the public hearing. Said costs shall be paid to the City Clerk or the Code Enforcement Officer prior to acceptance of the proposed preliminary plat.

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SECTION 3. All provisions of said ordinance No. 97-009 not hereby amended shall remain in full force and effect.

SECTION 4. This Ordinance shall become effective 30 (thirty) days after its passage and approval.

PASSED AND APPROVED THIS 21<sup>st</sup> DAY OF Dec., 1998.

*Edward P. Hume*

MAYOR

ATTEST: *Barbara Dillard*  
CITY CLERK

99021155

**AN ORDINANCE AMENDING ORDINANCE NO. 97-009, THE SAME BEING THE ORDINANCE REGULATING THE SUBDIVISION OF LAND WITHIN THE CITY OF ELM SPRINGS, ARKANSAS, AND ITS AREA OF PLANNING JURISDICTION.**

REC'D 11 33  
WASHINGTON CO AR  
K. HAINES

WHEREAS, the City Council of Elm Springs, Arkansas deems it necessary from time to time, to adjust certain standards for development, which could be implemented in keeping with the City's adopted Subdivision Ordinance; and for the purposes of promoting the health, safety, and general welfare of the citizens of Elm Springs, Arkansas; and

WHEREAS, the Elm Springs City Council has prepared an ordinance amending Ordinance No. 97-009, the same being The Ordinance Regulating the Subdivision of Land in the City of Elm Springs, Arkansas and its area of planning jurisdiction.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

SECTION 1. Ordinance No. 97-009 of the City of Elm Springs, being an ordinance providing for regulation of the subdivision of land within the City of Elm Springs and its area of planning jurisdiction and for other purposes is amended as hereinafter set forth.

SECTION 2. Be it ordained that the City of Elm Springs Subdivision Ordinance, Section 4B, Streetlights be and hereby is amended to read as follows:

The most energy efficient streetlights provided by the electric utility at the time of installation, or as directed by the Planning Commission or the Commission's duly appointed representative, shall be installed at each intersection and along the street at intervals of 300 to 350 feet as measured along the centerline of the street.

The minimum initial rating of the street lamp shall be based upon the classification of the street along which the streetlight is located, or in the case of intersections, the highest street classification in accordance with the following, or as directed by the Planning Commission or the Commission's duly appointed representative.

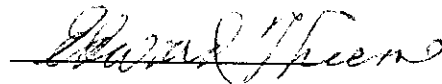
<u>Street Classification</u>	<u>Initial Lumens</u>
Collector	6,800
Minor Arterial	11,000
Principal Arterial	20,000

Fixture designs shall be those standard designs approved by the Planning Commission and supplied by the governing electric utility. Alternate fixture designs may be approved by the Planning Commission on a case by case basis. If the fixtures installed are not the standard fixtures furnished by the electric utility, a property owner's association in the case of subdivisions, or the property owner in case of large scale developments, shall be responsible for all costs of continuing maintenance thereof. The City of Elm Springs shall pay the energy use costs for the streetlights when installed.

SECTION 3. All provisions of said ordinance No. 97-009 not hereby amended shall remain in full force and effect.

SECTION 4. It has been found and is hereby declared by the City Council of the City of Elm Springs, Arkansas, in regular session assembled, that this ordinance is immediately required in order to to provide adequate light; to clarify language, and to insure the orderly development of the community for the general welfare of the citizens; and that the provision of this ordinance is essential to protect the health and welfare of the public; and that the immediate passage of this ordinance is necessary to adequately accomplish these purposes. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the public welfare shall be in full force and effect from and after its passage approval, and publication.

PASSED AND APPROVED THIS 6th DAY OF March, 2000.



MAYOR

ATTEST: Blenda Pettus  
RECORDER/TREASURER

2000027588

00 MAY 24 PM 12 31

**AN ORDINANCE TO AMEND THE ELM SPRINGS SUBDIVISION  
ORDINANCE PASSED JULY 7, 1997, COVERING MAINTENANCE  
GUARANTEE PROVISIONS, AND CONCERNING INSPECTION  
SAMPLING AND TESTING REQUIREMENTS**

**Whereas**, the City Council of the City of Elm Springs, Arkansas has determined that it is in the best interest of the City of Elm Springs and its citizens to amend the Elm Springs Subdivision Ordinance originally passed July 7, 1997.

**NOW THEREFORE** be it ordained by the City Council of the City of Elm Springs, Arkansas:

1. Section 4(D) of the Elm Springs Subdivision Ordinance passed on July 7, 1997 shall be amended to read as follows:

D. **Maintenance Guarantee:** An acceptable maintenance bond shall be provided in an amount at least equal to the contract price of the improvement, against defects and workmanship and materials for a period of at least one (1) year from the date of acceptance of such improvements. The Bond shall be filed with the City Clerk prior to the acceptance of the improvements by the City.

The City Council and the Planning Commission shall each have the right to require a maintenance bond in excess of the contract price, or in excess of a period of one year upon the specific finding of the Planning Commission or the City Council that such increased bond is necessary for the protection of the City.

2. A new Subsection "E" shall be added to Section 4 which Subsection E shall read as follows:

E. **Inspections, sampling and testing requirements.** Inspection and sampling and testing requirements shall be as follows:

(1) Inspections:

a. The following three types of inspections will be made during the progress of the project:

1. Intermediate progress inspections which can be made at any time.
  2. Phase inspections which are required at the completion of a major phase of work and prior to the start of the next phase of work.
  3. Final acceptance inspection which will be made upon the completion of all work.
- b. All inspections will be made by the city code enforcement officer or his designated representative. The phase inspections and the final inspection will be made with the contractor and the project engineer.
  - c. The city code enforcement officer has the authority to increase the amount of inspection and/or testing.
  - d. Intermediate progress inspections are required on pipe underdrains before the granular backfill material is placed above the top of the pipe.
  - e. A phase inspection is required upon the completion of the following phases of work:
    1. Subgrade.
    2. Base course and curb and gutter.
    3. Paving.
  - f. Any work performed on a phase prior to the approval of the previous phase shall be removed and replaced with satisfactory materials and workmanship.
  - g. All unsatisfactory work or materials shall be removed and replaced with satisfactory materials and workmanship.
  - h. If the project is long, the phase inspections may be made on a small portion of the project, but not less than 1,000 feet in length.
  - i. The developer's engineer is responsible for contracting the city code enforcement officer at least 24 hours prior to the need of a major phase inspection.

- j. The developer's engineer will accompany the city code enforcement officer and/or his designated representative on all inspections.

(2) Testing:


- a. The owner/developer, with the approval of the City, shall retain the services of a testing laboratory or registered professional engineer practicing in the materials and testing field (hereafter referred to as the lab engineer) to perform all sampling and testing. The owner/developer will pay for the costs of all sampling and testing performed on the project, including any additional sampling and testing as a result of failing tests and/or poor workmanship before the street will be accepted by the city.
- b. The lab engineer will report all test results to the city code enforcement officer with a copy to the developer's engineer.
- c. In the case of failing tests or poor workmanship, the city code enforcement officer may direct the lab engineer to perform additional sampling and testing, to be paid for by the developer.
- d. The following is the minimum sampling and testing frequency:
  - 1. *Cross drain backfill*: minimum of one density test per pipe or box culvert location.
  - 2. *Storm drain backfill*: minimum of one density test per 500 lineal feet of pipe or portion thereof when the storm drain is located in the street or under the curb and gutter.
  - 3. *Embankment*: minimum of one density test per layer per 500 lineal feet of roadway or portion thereof.
  - 4. *Subgrade*: minimum of one density test, one LL and one PI per 500 feet of roadway with a minimum of three density tests per project, and one sieve analysis per project for subgrade soil classification.
  - 5. *Base course*: minimum of one density test and one depth measurement (depth sounding) per 500 lineal feet of roadway, with a minimum of three density tests and three depth measurements per project. Also,

there will be a minimum of one gradation test and one PI test per project.

6. *Asphalt stabilized base (black base), ACHM binder, and ACHM surface courses:* for each material, a minimum of one density test and one depth measurement per 500 lineal feet of roadway, with a minimum of three density tests and three depth measurements per project.
7. *Structural concrete for drainage structures:* A minimum of one set of three concrete cylinders per 50 cubic yards of concrete or portion thereof. One cylinder will be broken at seven days and the other two will be broken at 28 days.
8. *Concrete pavement:* A minimum of one set of three concrete cylinders per 500 lineal feet of pavement or portion thereof, with a minimum of one set per project. The set shall be broken in seven and 28 days as described above. Also, one core and depth measurement per 500 lineal feet of complete pavement with a minimum of one per project.

3. Emergency Clause. It has been found and is hereby declared by the City Council that this ordinance is immediately required in order to facilitate the development inside the City of Elm Springs, and to promote the welfare of the City and its Citizens. Therefore an emergency is hereby declared to exist in this ordinance being necessary for the preservation of the orderly development of the City and for the health and safety of its citizens shall be in full force and effect from the date of its passage and approval.

Passed and approved this 15<sup>th</sup> day of May, 2000.

  
\_\_\_\_\_  
Ed Thiesse, Mayor

  
\_\_\_\_\_  
Glenda Pettus, City Clerk

ORDINANCE NO. 2002- 03

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE APPLICATION FOR REZONING OF PROPERTY NOW OWNED BY FADIL BAYYARI REVOCABLE LIVING TRUST u/a 1-31-97, FADIL BAYYARI, TRUSTEE, LOCATED IN THE CITY OF ELM SPRINGS, WASHINGTON COUNTY ARKANSAS

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by Fadil Bayyari, Trustee of the Fadil Bayyari Revocable Living Trust u/a 1-31-97, asking the City Council to rezone the property described therein and herein from A-1, Agricultural, to R-1, Low Density Residential; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on January 14, 2002, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from A-1, Agricultural, to R-1, low density Residential

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

**PASSED AND APPROVED** this 4th day of February, 2002.

**APPROVED:**

Ed Thiesse  
Ed Thiesse, Mayor

Glenda Pettus  
Glenda Pettus, City Clerk



**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

A PART OF THE SW ¼ OF THE SE ¼ OF SECTION 29, TOWNSHIP 18 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT A STONE FOR THE NE CORNER OF SAID SW¼, SE THENCE, S00°17'56"E 1322.92 FEET TO A FOUND IRON PIN FOR THE SE CORNER SW¼, SE¼, THENCE N89°53'14"W 902.37 FEET, THENCE 00°00'00"E 420.09 FEET, THENCE S89°56'21"W 117.42 FEET, THENCE N00°00'00"E 275.00 FEET, THENCE N89°56'21"E 117.23 FEET TO A FOUND IRON PIN, THENCE N00°02'04"E 417.61 FEET TO A FOUND IRON PIN, THENCE N00°03'18"E 208.66 FEET TO A FOUND IRON PIN, THENCE S89°59'00"E 895.20 FEET TO THE POINT OF BEGINNING, CONTAINING 28.03 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF ELM SPRINGS ROAD ON THE WEST, AND ANY OTHER EASEMENTS OF RECORD OR FACT.

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Ed Thieme and Blenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2002-03 (the "Rezoning Ordinance") was, on the 13<sup>th</sup> day of June, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 13<sup>th</sup> day of June, 2007.

Edward Thieme  
\_\_\_\_\_  
Mayor

Blenda Pettus  
\_\_\_\_\_  
City Clerk

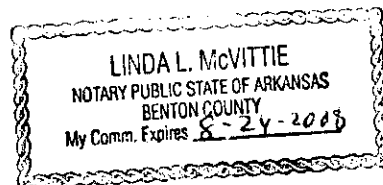
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 13<sup>th</sup> day of June, 2007.

Linda L. McVittie  
\_\_\_\_\_  
Notary Public

My Commission Expires:

8-24-2008



ORDINANCE NO. ~~2000-0~~ 2002-04

BE IT ENACTED BY THE CITY COUNCIL OF ELM SPRINGS, COUNTY OF WASHINGTON, STATE OF ARKANSAS

AN ORDINANCE TO BE ENTITLED:

**AN ORDINANCE ESTABLISHING REGULATIONS REGARDING  
THE PLACEMENT, CONSTRUCTION AND MAINTENANCE OF  
ANTENNA ARRAYS AND COMMUNICATION TOWERS  
IN ELM SPRINGS, ARKANSAS.**

**WHEREAS**, the urbanizing areas of Northwest Arkansas are experiencing a significant increase in the number of towers being constructed by cellular, personal communications service and specialized mobile radio service providers, as well as others, and the City recognizes the need for such; and

**WHEREAS**, Section 704 of the Telecommunications Act of 1996 establishes a framework for the exercise of jurisdiction by municipalities and local governments over construction, modification, and placement of facilities such as towers for cellular, personal communications service and specialized mobile radio service; and

**WHEREAS**, citizens of Elm Springs have expressed significant concerns relating to said towers and facilities; and

**WHEREAS**, it is in the best interest of the citizens of Elm Springs to provide for the orderly development of the lands in said County;

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

ARTICLE 1. Purpose. The purpose of these regulations is to promote the efficient and effective provision of communication services in compliance with the Telecommunications Act of 1996 while responding to the concerns of the citizens of Elm Springs. The intent of these regulations is to protect the general safety and welfare of the citizens of Elm Springs by providing for rules governing the location, construction, repair and maintenance of antenna arrays and communication towers within the City.

ARTICLE 2. Effect. This shall be a free-standing Ordinance, but to the extent not inconsistent herewith, the provisions of the City of Elm Springs Zoning Ordinance, relating to administration, appeals, variances, and enforcement are incorporated by reference.

ARTICLE 3. Definitions.

Applicant

An "applicant" is the person or persons making an application to the City for approval of a tower or major modification, as defined herein, or, for continuing obligations hereunder, any legal successor to such person(s). Such person(s) need not be a tower or land owner.

Antenna Array

An "antenna array" means one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include an omni directional antenna (rod), a directional antenna (panel) and/or a parabolic antenna (disc). The antenna array does not include the Support Structure, as defined herein.

Tower

A "tower" is any structure that is designed and constructed primarily for the purpose of supporting one or more antenna arrays, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. The fact that one or more antenna arrays is placed on any structure which was not primarily intended for such purpose does not convert the structure into a tower.

Support Structure

A "support structure" is any existing structure onto which one or more antenna arrays are placed; they need not be towers.

Major Modification

A "major modification" to a tower or support structure is a change from personal use to non personal use or commercial use; any increase in height which would require a significant increase in lighting or noise level; or increase in height of more than 24 feet.

Personal Use

"Personal use" refers to a non-commercial use by a resident of the subject property. If any revenues are generated from the operation of the tower, it will not be for personal use as such term is used herein.

## Residence

"Residence" means a dwelling which is either currently inhabited by one or more persons legally entitled to be there, or suitable for such habitation. It specifically does not include abandoned or other structures which are not suitable for human habitation.

ARTICLE 4. General Applicability. These regulations shall apply to the construction and major modification of towers, whether or not they are designed to provide cellular, personal communications service and/or specialized mobile radio service, except as provided herein. These regulations shall also apply to all outbuildings and facilities built in connection with any tower governed by these regulations. Any major modifications to a tower facility must be approved in the same way that a new tower would have to be approved. If a tower is damaged or for other reasons is to be replaced, the repair or replacement is subject to these regulations only if the repair or replacement amounts to a major modification as defined herein.

ARTICLE 5. Exclusions. The regulations adopted herein shall not apply to the following towers:

- (a) Towers for personal use which, including the height of all attached antenna arrays, do not extend more than 60 feet from the ground;
- (b) Temporary structures designed to be used for not more than 30 days in connection with a special event or for any reasonable period of time in and immediately following an emergency, including without limitation those towers which are identified as "C.O.W.s" or "Cellular on Wheels."

ARTICLE 6 . Procedures for Regular Review. A project which is subject to regular review pursuant to the terms of this ordinance shall be submitted to the City of Elm Springs Planning Commission, and shall contain the information required by the form which is attached to the ordinance as Appendix "A" and entitled "Application for Approval of Tower." If the Application is complete and complies with the terms of this ordinance, the staff or Planning Commission Chairperson will submit the application to the full Planning Commission, which shall review the application and consider its approval or denial in accordance with the terms of this ordinance. The Planning Commission hereby establishes a calendar of submittal dates for each Planning Commission meeting, based upon a deadline no later than twenty-one (21) days prior to the next regularly scheduled Planning Commission meeting. As of the passage of this ordinance, the usual and customary meeting date for the Commission is the second Monday of each month. However, the Planning Commission reserves the right to reschedule its regular and special meetings at any time, subject to notification to the public. A completed application submitted prior to a given submittal date shall be presented for consideration at the applicable Planning Commission meeting. In addition to the requirements contained herein, the Application

for Approval of Tower or Antenna Array and construction thereof is subject to the City's standard building permit regulations and fees.

ARTICLE 7. Preference for Co-Location.

- (a) All Applicants seeking permission to construct one or more towers in the City of Elm Springs shall cooperate in co-location of antenna arrays on their towers where feasible.
- (b) In complying with the requirements of paragraph b), Applicants must include the information required in the appropriate Application Form, provided that:
  - (i) With regard to the required statement that the owners of all such towers have been contacted and asked about the possibility of co-location, an explanation of why such contract was not made will be satisfactory if it indicates that a particular tower was obviously unsatisfactory for technological or safety reasons.
  - (ii) With regard to the required statement explaining why the available towers in the area are not suitable for co-location, by way of example and not limitation, existing towers would be unsuitable if co-location would cause interference problems; if there are other technological problems; if the tower is already filled to capacity; if the cost of co-location would exceed the cost of a new tower; if co-location would require a major modification (as such term is defined herein); or if co-location would not satisfy the reasonable three (3) year future needs of the Applicant which would be served by construction of a new tower.
  - (iii) With regard to the supplemental information which may be required by the Planning Commission, Applicant may delete any and all references to confidential pricing information in any correspondence submitted.

ARTICLE 8. Zoning. The erection of towers shall be limited to Areas zoned A-1, Agricultural Zone.

ARTICLE 9. Setbacks from roads and residences. All towers shall be set back from the nearest right of way of all public roads by at least sixty (60) feet. In cases where no recorded right of way exists, the right of way shall be defined as the property fence, if existing, or the toe of the front slope on fills or the top of the back slope, where ditches exist.

Towers subject to this ordinance will be located so that there will be no residence where the nearest part of the residence is within 150% of the height of the tower from the base of the tower, unless the owner of the land on which the tower rests or from whose property

the tower land was leased or purchased and/or the tenant of said property consents in a signed writing to the construction of said tower. All adjacent or adjoining residences will be governed by the 150% rule.

ARTICLE 10. Mitigation of Visual Impact. In minimizing any aesthetic problems with a proposed Tower or Antenna Array, Applicants agree to take the following steps:

- (a) Signage at the site is limited to non-illuminated warning and equipment identification signs.
- (b) Unless specifically required by FAA regulations, no tower shall be equipped with strobe lights.

ARTICLE 11. Precautions against excessive noise. Equipment used in connection with a tower or antenna array shall not generate noise that can be heard beyond the site. This prohibition does not apply to air conditioning units no noisier than ordinary residential units or generators used in emergency situations where the regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional residential muffler.

ARTICLE 12. Precautions Against Trespassers. The base of every tower must be surrounded with a chain link fence at least six (6) feet in height and topped with either barbed wire or razor wire. The gate for such fence shall be kept locked except when authorized personnel are working on or around the tower. The gate and all tangents of the fence must be posted with signs warning against trespass and providing a number to call in case of an emergency on each gate and each side of the fence. Any ladder or other apparatus designed to aid in the climbing of a tower shall be constructed so that the bottom twelve (12) feet of such ladder or apparatus is not readily accessible except when it is in use by construction, maintenance, repair or other authorized personnel.

ARTICLE 13. Maintenance of towers and facilities. By making an application hereunder, Applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned or leased by Applicant which are located in the City. Applicant further agrees to conduct inspections of all such facilities not less frequently than every six (6) months and to conduct a climbing inspection of not less than every twelve (12) months. Applicant agrees that said inspections will be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.

The Planning Commission may request in writing from the Applicant documentation regarding such inspections and maintenance activities at any such facilities. Applicant agrees to provide the documentation within thirty (30) days after the mailing of any such request. Said documentation shall include but need not be limited to the following items, unless specifically indicated that one or more of the following items need not be provided:

(a) The date on which the tower was originally constructed and the date of all modifications thereto.

(b) Verification of safe and appropriate grounding and electrical connections as per the version of the National Electrical Code in effect at the last modification or addition to the electrical system. Said grounding shall consist of a grid of bare copper conductor not less than 2/0 in size, buried no more than 18 inches beneath finished grade and connecting the anchor array to no less than two 3/4 inch diameter by 8 foot ground rods. The ground rods shall be driven vertically to full length 12 inches beneath finished grade.

© Structural design certification by the tower manufacturer regarding the facility's capability to withstand a combination of accumulation of one inch of ice and seventy (70) mile per hour winds.

(d) A statement that all antenna arrays on such tower have been attached and maintained in accordance with the specifications of the manufacturer.

(e) For a guyed tower, a statement that all guy wires are being properly maintained so that structural integrity of the tower is not compromised and that no significant anchor rod corrosion or deterioration is occurring due to electrolysis or oxidation due to loss of corrosion resistant coatings. All such corroded guys or anchor rods shall immediately be replaced and preventive measures taken to isolate and protect them from future corrosion.

(f) For any lattice tower, a statement that all welds and other joints are being properly maintained so that they do not show signs of wear which would make the tower unsafe.

(g) For lighted towers, verification of payment of the most recent applicable electric bill or other evidence that the facility remains functional and the safety signals are in working order.

(h) A statement by the owner verifying the continued use or need for the structure.

(l) All towers shall have protective anticorrosion coatings, such as galvanizing or corrosion resistant paint. Where paint is used, the tower shall be painted by alternating sections of red and white paint as required by the applicable FAA regulations. All dull, oxidized, chipped or faded paint shall have a fresh coat of paint.

(j) Property inside and outside fences shall be maintained in accordance with City Ordinances.

(k) Should the Applicant fail in any area of maintenance of the tower and facilities or fail to satisfactorily respond to the City's safety or maintenance concerns, the City



reserves the right to employ an independent qualified tower inspector to inspect the tower and facilities. Should the independent inspector find deficiencies in the maintenance of the tower and facilities, the cost of employment of said independent inspector will be borne by the Applicant/Operator of the tower and facilities. If no deficiencies are found, cost of said inspection will be borne by the City. All legitimate deficiencies found by the independent inspector shall be corrected by the Applicant/Operator within 60 days of notice from the City regarding the deficiencies.

ARTICLE 14. Regulatory Compliance. Applicant, by requesting approval of any Tower or Antenna Array in Elm Springs, certifies and agrees that no Towers or Antenna Arrays under the Applicant's control will emit electro-magnetic radiation (EMR) in excess of federal safety and health guidelines as adopted by any authorized federal regulatory agency.

ARTICLE 15. Opportunity For Public Response. Except as expressly provided herein, all landowners of record owning land within 300 feet of the base of the tower or one and one half times the height of the tower, whichever is greater; and all landowners of record owning property adjacent to the parcel of land on which any proposed tower or major modification subject to these regulations is to be placed, must be notified in writing and given a chance to voice opposition or support for a proposed tower or antenna array at a public meeting. For purposes of this provision, a landowner shall be considered to own, property which is adjacent to the parcel of land on which the tower is to be constructed if it shares a common boundary with the parcel in question, or if it would share a common boundary except for the existence of a public road.

In addition to the foregoing notice requirements, any time a variance from any of the requirements in these regulations is sought, all persons owning land within 150% of the height of the tower from the base of the tower must be notified, in writing, of the requested variance, and be given an opportunity to respond to the request.

The applicant shall be responsible for the cost of preparing the list of property owners to be notified, and to provide the Planning Commission with an alphabetized list of said owners showing their names, addresses, parcel tax identification number (Washington or Benton County Assessor's records). The applicant shall be responsible for mailing notifications to all said property owners required hereunder no later than fifteen (15) days prior to the scheduled meeting date. The notices shall identify the applicant's name, address and telephone number, the address and legal description of the property upon which the facility is proposed, the City of Elm Springs address (P. O. Box 75, Elm Springs, AR 72748), the date, location and time of the public hearings, a vicinity map and sketch plan indicating the proposed site layout, including tower size at the base, tower height, approximate locations for all footings, anchors and guys, any outbuildings, equipment cabinets, fencing, access, power and telephone easements.

Copies of the notification documents and Certified Return Receipt Requested U. S. Postal Service "green" cards shall be provided to the Planning Commission as proof that all

owners of record have been notified. Failure to comply with the notification procedures shall constitute the Applicant's withdrawal of the application pending compliance.

ARTICLE 16. Burden of Proof. Applicant must prove that any application under these regulations satisfies all of the applicable requirements of these regulations.

ARTICLE 17. Severability. If any part of these regulations is declared invalid by a court of competent jurisdiction such invalid portions shall be severed and the remaining portions of these regulations shall remain in full force and effect. Furthermore, all laws, rules or regulations by the FCC or other federal entity shall supercede any of the provisions herein if a conflict exists.

ARTICLE 18. Enforcement. Violations of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of conditional uses, variances or waivers) shall be enforced against the tower Owner/Operator. A fine of no less than \$100.00 and no more than \$1000.00 may be levied by the City for each uncorrected violation. Each calendar day any violation exists shall constitute a separate violation.

ARTICLE 19. Emergency. Whereas the construction of towers and related facilities are of immediate concern to the citizens of Elm Springs, and the general welfare and safety of the citizens are affected by such; therefore, an emergency is declared to exist and this ordinance shall be and is effective from the date of its passage.

Passed and approved this 4<sup>th</sup> day of February, 2002.

Glenda Pettus  
Glenda Pettus, City Clerk

Ed Thiessé  
Ed Thiessé, Mayor

APPENDIX A

CITY OF ELM SPRINGS, ARKANSAS  
APPLICATION FOR APPROVAL OF  
TOWER OR ANTENNA ARRAY

Name of Applicant: \_\_\_\_\_

Name of Company Represented: \_\_\_\_\_

Business Address: \_\_\_\_\_

Home Address: \_\_\_\_\_

24 Hour Emergency Phone Number: \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Name of Property Owner: \_\_\_\_\_

Permanent Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Address or Location of Proposed Tower Property:

911 Address:

Name of Street or Road Giving Access to Property: \_\_\_\_\_

Information About Support Structure: is proposed support structure existing or new?  
\_\_\_\_\_. Support structure description (guyed tower, monopole, water tower, etc.):

Manufacturer's Name and Address: \_\_\_\_\_

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Date of Manufacture: \_\_\_\_\_ Face Dimensions at Base: \_\_\_\_\_

Existing or Proposed Height: \_\_\_\_\_

Total Height with Antenna Arrays: \_\_\_\_\_

Tower Lighting (number, type, lumens, etc.) \_\_\_\_\_

Auxiliary Power: Type of Engine \_\_\_\_\_ Horsepower \_\_\_\_\_

Power Output (kW) \_\_\_\_\_ Operating Voltage \_\_\_\_\_

Type of Fuel, Quantity, and Storage Container \_\_\_\_\_

A. Attach eight copies of a Plat of the property to this Application. The Plat should contain the following minimum information:

1. A plat of the site property, showing all existing appurtenances thereto, proposed tower, guy and anchor locations, control house, auxiliary power and fuel storage locations.
2. Show all roads and streets adjacent to the property and all existing and proposed easements on the property.
3. Show all residences within twice the height of the tower.
4. Show the names and addresses of all adjoining property owners.
5. Date, scale, and North arrow.
6. Vicinity Map.
7. Complete legal description of the property on which the tower is to be located.
8. Water ways and drainage of property, flood plain areas on the property or a note stating that none exist.
9. A description of any plat and deed restrictions or a statement that none exist.
10. Removal of any vegetation from the site.
11. Existing and final elevation contours at no more than five foot intervals.
12. Cut and fill quantities, if any, and proposed erosion and silting prevention measures.
13. Certificate of Accuracy of Survey statement:  
"I certify that the plan shown and described hereon is a true and correct survey."

Surveyor \_\_\_\_\_ Date \_\_\_\_\_  
Stamp

14. Certificate of Accuracy of Applicant and Property Owner:

"We the undersigned do hereby certify that the information provided hereon and in the attached Application for Approval of Tower or Antenna Array is true and correct and is in compliance with eth Regulations of the City of Elm Springs, Arkansas."

Applicant/Representative: \_\_\_\_\_

Date: \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name of Signatory: \_\_\_\_\_

Property Owner: \_\_\_\_\_

Date: \_\_\_\_\_

B. Provide one set of structural drawings of the proposed tower and one set of erection plans and specifications.

C. Provide one set of Guy and Anchor plans showing anchor type and dimensions, guy attachments and size and tower foundation or footing. Show concrete reinforcement and design strengths, soil type and bearing strength.

D. Application fee of \$150.00.

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This Application has been reviewed and approved by the City of Elm Springs Enforcement Officer.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

This Application has been reviewed and approved by the Elm Springs Planning Commission.

Chairman: \_\_\_\_\_ Date: \_\_\_\_\_

Secretary: \_\_\_\_\_ Date: \_\_\_\_\_

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Ed Thiese and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2002-04 (the "Antenna Ordinance") was, on the 18 day of July, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 18<sup>th</sup> day of July, 2007.

Edward Thiese  
Mayor

Glenda Pettus  
City Clerk

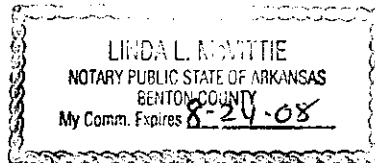
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 18<sup>th</sup> day of July, 2007.

Linda L. Mottie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2002-08

**AN ORDINANCE TO ADOPT VARIOUS STANDARD CODES RELATING TO  
THE INSPECTION ACTIVITIES OF THE CITY OF ELM SPRINGS,  
WASHINGTON AND BENTON COUNTIES, ARKANSAS, AND  
ENFORCEMENT OF BUILDING PROVISIONS AS PROVIDED IN SAID  
CODES, AND DECLARING AN EMERGENCY.**

WHEREAS, it is the desire of the City Council of the City of Elm Springs, Arkansas to adopt, in all respects, the various Standard Codes relating to amusement devices, building, fire prevention, gas, housing, mechanical, plumbing and swimming pools, and electrical; and

WHEREAS, the adoption of these Codes is done to facilitate proper inspection activities by the City of Elm Springs, Washington and Benton Counties, Arkansas relating to construction and to maintenance of buildings within said City relating to public safety, health and general welfare.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS IN REGULAR SESSION ASSEMBLED, AS FOLLOWS:

SECTION 1. The current editions of the following Codes now, and as they are from time to time amended and updated, are hereby adopted by reference, save and except the portions thereof as are hereinafter modified or amended, as though they were copied herein fully:

- Standard Amusement Device Code
- Standard Building Code (SSBCI) (including all Appendices)
- Standard Fire Prevention Code
- Standard Gas Code
- Standard Housing Code
- Standard Swimming Pool Code
- Standard Unsafe Building Abatement Code
- Arkansas State Plumbing Code
- Arkansas State Gas Code
- Arkansas State Mechanical Code
- National Electrical Code

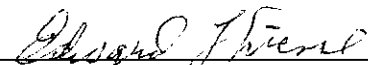
SECTION 2. The above Codes are hereby amended to require that the minimum square footage per person requirement in residential use structures is 250 square feet.

SECTION 3. When reference is made within said Codes to the duties of a certain official named therein, that designated official of the City of Elm Springs, Arkansas, who has duties corresponding to those of the named official in said Code shall be deemed to be the responsible official insofar as enforcing the provisions of said Code are concerned. Further, three (3) copies of each of the Codes adopted hereinabove shall be kept at the office of the City Clerk in Elm Springs and shall be available for inspection by the public during regular business hours.

SECTION 4. This Ordinance shall take effect and be in force and effect from and after its passage, and that this Ordinance supercedes and replaces Ordinance No. 95-3-2 and its amendment, Ordinance No. 00-3, and any other Ordinances in conflict herewith.

SECTION 5. It is hereby declared that an emergency exists because the most current Standard Codes directly govern the safety of the structures built in the City of Elm Springs, and it is necessary for the preservation of the health, safety and welfare of the citizens of Elm Springs, Arkansas, that the most current Standard Codes be adopted for this purpose, and that this Ordinance shall become effective upon its passage, approval and publication.

PASSED AND APPROVED THIS 6<sup>th</sup> DAY OF May, 2002.

  
\_\_\_\_\_  
Ed Thiesse, Mayor

ATTEST

  
\_\_\_\_\_  
Glenda Pettus, City Clerk



**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Ed Thiese and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2002-08 (the "Standard Code Ordinance") was, on the 29<sup>th</sup> day of August, 2001, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 29<sup>th</sup> day of August, 2001.

Edward Thiese  
\_\_\_\_\_  
Mayor

Glenda Pettus  
\_\_\_\_\_  
City Clerk

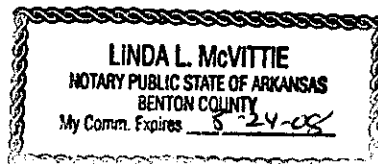
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this ~~29<sup>th</sup>~~ 10<sup>th</sup> day of ~~August~~ Sept, 2001.

Linda L. McVittie  
Edward Thiese  
\_\_\_\_\_  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2002-9

**AN ORDINANCE TO AMEND SECTION 4 OF THE ZONING ORDINANCE  
(ORDINANCE NUMBER 93-5-A) OF THE CITY OF ELM SPRINGS,  
ARKANSAS, AND TO DECLARE AN EMERGENCY.**

**WHEREAS**, the City Council of Elm Springs recently adopted an ordinance regulating communications towers and antenna arrays for the protection of its citizens; and

**WHEREAS**, the adoption of regulations regarding the placement, construction and maintenance of antenna arrays and communication towers requires the establishment of zoning restrictions related thereto.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, AS FOLLOWS:**

SECTION VI.-DISTRICTS, Paragraph 4 of the Zoning Ordinance of the City of Elm Springs shall be amended to add the following as "SP", the use being permitted in special cases where it will not adversely affect surrounding property, pursuant to the procedures and regulations of the City's ordinance establishing regulations regarding the placement, construction and maintenance of antenna arrays and communication towers:


**The erection of all Communication Towers and Antenna Arrays shall be limited to areas zoned A-1, as a special use (SP).**

**EMERGENCY.** Whereas the construction of towers and related facilities are of concern to the citizens of Elm Springs, and the general welfare and safety of the citizens are affected by such, and whereas the Ordinance establishing Regulations Regarding the Placement, Construction and Maintenance of Antenna Arrays and Communication Towers has been adopted and is in effect; therefore, an emergency is declared to exist and this Ordinance shall be and is effective from the date of its passage.

PASSED AND APPROVED THIS 3<sup>rd</sup> DAY OF June, 2002.

  
\_\_\_\_\_  
Ed Thiesse, Mayor

ATTEST:

  
\_\_\_\_\_  
Glenda Pettus, City Clerk

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Ed Thiesse and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2002-9 (the "Amend Zoning Section 4 Ordinance") was, on the 4<sup>th</sup> day of October, 2007<sup>2</sup>, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 4<sup>th</sup> day of October, 2007<sup>2</sup>.

Edward Thiesse  
Mayor

Glenda Pettus  
City Clerk

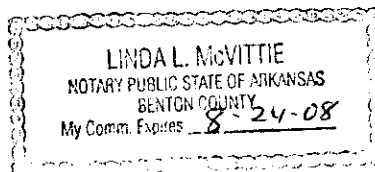
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 7<sup>th</sup> day of Oct, 2007<sup>2</sup>.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2003- 03

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING ELM SPRINGS  
CITY ZONING ORDINANCES BY  
REZONING CERTAIN LANDS FROM A-1  
TO R-1 AND PROVIDING FOR THE  
EMERGENCY CLAUSE AND FOR OTHER  
PURPOSES**

**WHEREAS**, pursuant to the provisions of Elm Springs City Zoning Ordinances, the City Council has found that certain lands hereinafter described are better suited for R-1 than A-1 zoning; and

**WHEREAS**, the City Council has determined that public interest and welfare will be enhanced by the requested rezoning; and

**WHEREAS**, the Planning Commission of the City of Elm Springs has considered and recommends this rezoning.

**NOW THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Elm Springs, Arkansas, to-wit:

1. That the Elm Springs City Zoning Ordinances should be and the same hereby is amended as hereinafter provided.

2. That the land hereinafter described should be and the same is hereby zoned as R-1 and that said lands being in Washington County, Arkansas, are described as:

The East 1/2 of the Northwest 1/4 of Section 29, Township 18 North, Range 30 West, containing eighty (80) acres.

3. That it is necessary to begin the project immediately and to bring proposed uses of the property into conformance with the Elm Springs City Zoning Ordinances and because of such an emergency is declared to exist and in order to protect the public peace, health, safety, and welfare, this Ordinance shall be in full force and effect from the date of its passage and approval.

PASSED AND APPROVED this 21<sup>st</sup> day of April, 2003.

APPROVED:

Jane Waters  
Jane Waters, Mayor City of Elm Springs

ATTEST:

Glenda Pettus  
Glenda Pettus, City Clerk

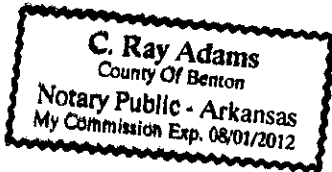
**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Blenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2003-03 (the "Rezonett-1 to R-1 Ordinance") was, on the 16<sup>th</sup> day of May, 2007<sup>3</sup> duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 16<sup>th</sup> day of May, 2007<sup>3</sup>.



Jane Waters  
Mayor

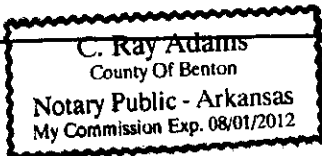
Blenda Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 19 day of May, 2007<sup>3</sup>.

C. Ray Adams  
Notary Public

My Commission Expires:



ORDINANCE NO. 2003- 09

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE APPLICATION FOR REZONING OF PROPERTY NOW OWNED BY JANIE WARD, COMMONLY DESCRIBED AS HIGH RIDGE ESTATES, LOCATED IN THE CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by Janie Ward, asking the City Council to rezone the property described therein and herein from A-1, Agricultural, to R-1, Low Density Residential; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on August 11, 2003, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from A-1, Agricultural, to R-1, low density Residential.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

**PASSED AND APPROVED** this 18 day of August, 2003.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

PART OF THE SE1/4 OF THE SW1/4 OF SECTION 25, TOWNSHIP 18 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SAID SE1/4 OF THE SW1/4 OF SECTION 25; THENCE S87°25'59"E 116.91 FEET ALONG THE NORTH LINE OF SAID SE1/4 OF THE SW1/4 OF SECTION 25 TO A FOUND IRON PIN AND THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE S87°25'59"E 1210.15 FEET TO A FOUND IRON PIN AT THE NORTHEAST CORNER OF SAID SE1/4 OF THE SW1/4 OF SECTION 25; THENCE S03°00'30"W 1315.21 FEET TO THE SOUTHEAST CORNER OF SAID SE1/4 OF THE SW1/4 OF SECTION 25; THENCE N87°42'07"W 1326.18 FEET TO THE SOUTHWEST CORNER OF SAID SE1/4 OF THE SW1/4 OF SECTION 25; THENCE N02°58'04"E 856.20 FEET; THENCE S87°26'10"E 227.88 FEET; THENCE N15°16'18"W 282.34 FEET TO A FOUND IRON PIN; THENCE N03°36'03"W 197.59 FEET TO THE POINT OF BEGINNING, CONTAINING 38.44 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

THE COMMON DESCRIPTION OF THE PROPERTY IS: HIGH RIDGE ESTATES SUBDIVISION, SCOTT LANE, ELM SPRINGS.



**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 03-09 (the "Ward Kezone Ordinance") was, on the 25 day of September, 2007<sup>3</sup>, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 25 day of September, 2007<sup>3</sup>.

Jane Waters  
\_\_\_\_\_  
Mayor

Glenda Pettus  
\_\_\_\_\_  
City Clerk

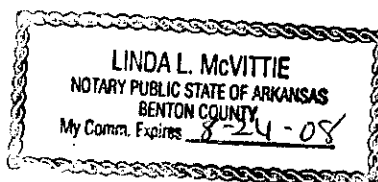
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 25th day of Sept, 2007.

Linda L. McVittie  
\_\_\_\_\_  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2003- 11

CITY OF ELM SPRINGS, BENTON COUNTY, ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE APPLICATION FOR REZONING OF PROPERTY NOW OWNED BY ALAN HOLCOMB, LOCATED IN THE CITY OF ELM SPRINGS, BENTON COUNTY, ARKANSAS

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by Alan Holcomb, asking the City Council to rezone the property described therein and herein from A-1, Agricultural, to C-1, Commercial; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on August 11, 2003, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from A-1, Agricultural, to C-1, Commercial.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

**PASSED AND APPROVED** this 18<sup>th</sup> day of August, 2003.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

Part of the South Half SE Corner of Section 24 Township 18 N Range 30 West, Benton County, Arkansas, described as beginning at the SW Corner SE SE Thence East 258' N 34°E150' N50°E555' W 1100" S W/ Highway 112 490' E433' to P.O.B.

Also described as Tax Parcel ID # 18-08630-000 in the Benton County Assessor's records.

The common description of the property is: 14364 Highway 112 North, Elm Springs, AR 72728.

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Petkus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 03-11 (the "Holcomb Ordinance") was, on the 25 day of September, 2003,<sup>3</sup> duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 25 day of September, 2003.

Jane Waters  
\_\_\_\_\_  
Mayor

Glenda Petkus  
\_\_\_\_\_  
City Clerk

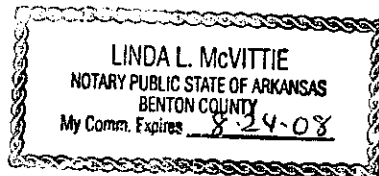
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 25th day of Sept, 2003.

Linda L. McVittie  
\_\_\_\_\_  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2004-03

**AN ORDINANCE AMMENDING SECTION XI MOBILE HOMES OF THE ELM SPRINGS ZONING ORDINANCE (#97-0-01) TO COMPLY WITH ACT 624 OF THE ARKANSAS GENERAL ASSEMBLY OF 2003**

WHEREAS, it is the desire of the city council of Elm Springs, Arkansas to comply, with State Law in all respects, and;

WHEREAS, the adoption of this Ordinance to comply with state law and to facilitate proper inspection activities by the City of Elm Springs, Washington County, Arkansas relating to construction and to maintenance of buildings within said City of Elm Springs, Washington County, Arkansas and relating to public safety, health and general welfare; and

WHEREAS, the Elm Springs Planning Commission has undertaken a comprehensive study of planning and zoning in Elm Springs, but until that project can be completed, it is necessary to amend the Elm Springs Zoning Ordinance to comply with state law.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

SECTION 1. Manufactured Homes shall be allowed in Zoning Districts A-1 and R-1 as defined in the Elm Springs Zoning Ordinance.

SECTION 2. Only Manufactured Homes as defined in Section III of the Elm Springs Zoning Ordinance shall hereafter be placed within the City of Elm Springs. All Mobile Homes as defined in said Section III shall not be placed within the City limits of Elm Springs for any purposes whatsoever.

SECTION 3. The table in Section VI, Paragraph 5, Yard and Area Requirements, of the Zoning Ordinance is hereby revised to require 1 acre Minimum Lot Size and 1 acre Minimum Area Per Family.

SECTION 4. The following requirements for placement of any Manufactured Home shall apply:

(a) The manufactured home shall be adequately and sufficiently anchored and placed on a continuous slab or continuous masonry underpinning. Both slab and/or masonry underpinning shall have a footing and reinforcement adequate to support the imposed loading.

(b) The manufactured home shall be connected to existing water, sewer and electric utilities before occupancy is permitted.

(c) All building setbacks, front, rear and side in effect in the Zoning District shall apply to manufactured homes. No manufactured home with any side dimension of less than 20 feet shall be approved.

(d) Off-street parking to provide space for four vehicles shall be provided.

(e) Construction of carports, garages, shops and other outbuildings shall be consistent with and comply with existing requirements of the Zoning District.

(f) Front entry shall be oriented to the front yard of the lot and shall have a covered front porch permanently attached to the manufactured home. A rear entry with permanent patio, deck and/or steps shall be provided.

(g) All manufactured homes shall have a shingled, pitched roof of no less than 4:12 pitch.


(h) All manufactured homes shall have siding materials consistent with neighboring construction.

(i) All other regulations and requirements applicable to other dwellings in the same development and zoning district shall apply equally to manufactured homes.

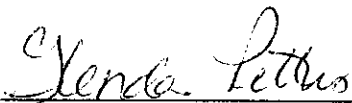
SECTION 5. This Ordinance supplements all existing Zoning Ordinance regulations. Existing regulations not specifically amended or superceded by this Amendment still apply. This Amendment shall take effect and be in force and effect from and after its passage.

SECTION 6. Because it is imperative that existing regulations and ordinances be brought into compliance with the new Act 624, it is hereby declared that an emergency exists and that this Ordinance is necessary for the preservation of the health, safety and welfare of the citizens of Elm Springs, Arkansas, and that it shall become effective upon its passage, approval and publication.

PASSED AND APPROVED THIS 16 DAY OF FEBRUARY, 2004.

  
Jane Waters, Mayor

ATTEST

  
Glenda Pettus, City Clerk

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Petrus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2004-03 (the Amend #1 Mobile Homes Ordinance") was, on the 20 day of February, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 20 day of February, 2007.

Jane Waters  
\_\_\_\_\_  
Mayor

Glenda Petrus  
\_\_\_\_\_  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 20 day of Feb-, 2007.

C. Ray Adams  
\_\_\_\_\_  
Notary Public

My Commission Expires:

8-01-12

C. Ray Adams  
County Of B  
Notary Public - Arkansas  
My Commission Exp

C. Ray Adams  
County Of Benton  
Notary Public - Arkansas  
My Commission Exp 08/01/2012



ORDINANCE NO. 2004- 09

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE APPLICATION FOR REZONING OF PROPERTY NOW OWNED BY FADIL BAYYARI, KNOWN AS "THE JACKSON PROPERTY" LOCATED IN THE CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS**

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by Fadil Bayyari, Trustee of the Fadil Bayyari Revocable Living Trust requesting that the City Council to rezone the property described therein and herein from A-1, Agricultural, to R-1, Residential; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on June 14, 2004, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

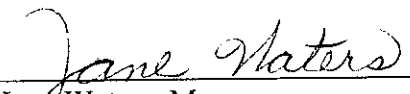
**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from A-1, Agricultural, to R-1, Residential.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

**PASSED AND APPROVED** this 21 day of June, 2004.

**APPROVED:**

  
\_\_\_\_\_  
Jane Waters, Mayor

Attest:

  
\_\_\_\_\_  
Glenda Pettus, City Clerk

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY  
KNOWN AS  
"THE JACKSON PROPERTY"**

A part of the Fractional Northwest Quarter (NW/4) of the Fractional Northwest Quarter (NW/4) of Section Thirty (30), Township Eighteen (18) North, Range Thirty (30) West in Washington County, Arkansas and being more particularly described as follows, to-wit: Beginning at the Northeast Corner of the Fractional Northwest Quarter (NW/4) of the Fractional Northwest Quarter (NW/4) of said Section Thirty (30) and running thence South  $89^{\circ}57'50''$  West, 405.00 feet, thence South  $00^{\circ}09'36''$  East, 1,318.40 feet to the centerline of Elm Springs Road and running along said centerline thence North  $88^{\circ}53'04''$  East 405.00 feet thence leaving centerline of Elm Springs Road and running thence North  $00^{\circ}09'28''$  West 1,310.77 feet to the Point of Beginning and containing 12.22 acres, more or less, subject to the right-of-way of Elm Springs Road on the South property line.

Subject to easements, rights-of-way, and protective covenants of record, if any.

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2004-09 (the "Reynolds Jackson Property Ordinance") was, on the 24 day of June, 2004, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

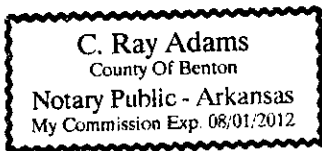
DATED this 24 day of June, 2004.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 24<sup>th</sup> Day of June, 2004.



C. Ray Adams  
Notary Public

My Commission Expires:

08-01-2012

ORDINANCE NO. 2004- 10

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE APPLICATION FOR REZONING OF PROPERTY LOCATED IN THE CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

WHEREAS, an Application for Rezoning was submitted and filed with the City of Elm Springs by Steve Clark, requesting that the City Council to rezone the property described therein and herein from A-1, Agricultural, to R-1, Residential; and

WHEREAS, after due notice as required by law, the Elm Springs Planning Commission has, on August 16, 2004, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

WHEREAS, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

NOW THEREFORE, BE IT ENACTED, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from A-1, Agricultural, to R-1, Residential.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

PASSED AND APPROVED this 16 day of August, 2004.

APPROVED:

Jane Waters  
Jane Waters, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

A 5-acre strip of land 330 feet in width off of the western side of the following tract:

The south half of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section 29, Township 18 North, Range 30 West of the Fifth Principle Meridian, Washington County, Arkansas, containing 20 acres, more or less.

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2004-10 (the "Jackson Rezoning Ordinance") was, on the 24<sup>th</sup> day of August, 2004, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 25 day of August, 2004.

Jane Waters  
Mayor

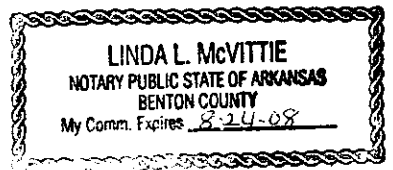
Glenda Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 25<sup>th</sup> Day of August, 2004.

Linda L. McVittie  
Notary Public

My Commission Expires:  
8-24-08



ORDINANCE NO. 2005-03

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE  
TO ESTABLISH A NEW RESIDENTIAL ZONING DISTRICT  
WITH REDUCED LOT SIZE  
AND DECLARING AN EMERGENCY**

WHEREAS, the City Council of Elm Springs, Arkansas deems it necessary to amend the Zoning Ordinance to include a new residential district with reduced lot size; and

WHEREAS, the Elm Springs Planning Commission has determined after lengthy study to establish a new residential district with reduced lot size for the Ordinance,

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

**SECTION VI.1 -DISTRICTS**

1. In General

The City of Elm Springs, Arkansas is hereby divided into the zoning districts listed below. No use permitted in one district shall be permitted in any other district unless so provided in this chapter.

A-1 –AGRICULTURAL  
R-1 – LOW DENSITY RESIDENTIAL  
R-1A –MEDIUM DENSITY RESIDENTIAL  
R-2 –DUPLEXES (Multi-Family)  
R-O –RESIDENTIAL OFFICE  
C-1 –COMMERCIAL

3. Zoning Districts, Character and Description

The Character and Description of the R-1A zoning district shall be the same as the R-1 zoning district.

4. Permitted Uses by Zoning District Table

The permitted uses of the R-1A zoning district shall be designated as Single Family. (Note: Manufactured homes are permitted only in R-1 zoning districts.)

## 5. Yard and Area Requirements

The yard and area requirements listed in Section VI.5 shall be as follow for R-1A zoning district:

ZONING DISTRICT AND USE:	R-1A, Single Family
LOT AREA:	Minimum Size; One Half Acre Per Family; One Half Acre
MINIMUM LOT WIDTH:	One Half Acre to 0.74 Acre; 85 feet 0.75 Acre and Larger; 100 feet.
MINIMUM BUILDING SETBACKS:	Front; 50 feet Side; 10 feet Back; 25 feet
MAXIMUM HEIGHT:	2 ½ Stories, or 35 feet

### SECTION VI.5.B Park Land Dedication

A. In R-1A and R-2 zones and other developments where reduced lot sizes may be permitted, the developer shall be required to make a reasonable dedication of land for public park facilities, or to make a reasonable equivalent contribution in lieu of dedication of land for the acquisition and development of park and recreational land that serves the development and community.

The Planning Commission will determine if the developer will dedicate land or contribute money in lieu of dedication. The Planning Commission will determine if the physical characteristics of the proposed dedication site and its surroundings make the site suitable for park or recreational purposes. Of special consideration, shall be the physical characteristics of the designated land; sufficiency of the park areas to adequately serve the neighborhood and community; adequate public access, to include consideration for vehicle parking. The Planning Commission shall take into consideration the most efficient use of the land.

The proposed dedication or contribution in lieu of dedication must be incorporated into the developer's preliminary plat or prior to plat approval.

#### B. Dedication Ratio\*

The dedication ratio per lot of development shall be as follows:

$$\text{Dedication Ratio Per Lot} = \text{Lot Acreage}[0.2 - 0.1(\text{Lot Acreage})]$$

Example: For a development of 25 one half acre lots, the required dedication would be:

$$\begin{aligned}\text{Dedication Acreage} &= 0.5[0.2 - 0.1(0.5)] \times 25 \text{ Lots} \\ &= 0.5[0.15] \times 25 \text{ Lots} \\ &= 1.875 \text{ Acres}\end{aligned}$$



\*The dedication ratio proposed above was designed to place the higher percentage of dedication on the smaller lots. The schedule below illustrates that scale.

Lot Acreage	% Donation	Sq. Ft.
Greater than 1	0	0
1.0	0.1	4,356
0.75	0.125	4,345
0.68	0.133	3882
0.5	0.15	3,267

#### C. Fee In Lieu of Acreage

The fee in lieu of dedication per lot shall be the equivalent of the undeveloped Dedication Acreage value as determined by the purchase price or the current fair market value of the development property as determined by the Planning Commission.

Example: For the development of 25 one half acre lots on property costing \$20,000 per acre, the required dedication would be:

$$\begin{aligned}\text{Fee In Lieu of Dedication} &= 1.875 \times \$20,000 \\ &= \$37,500.00\end{aligned}$$

#### D. Dedication Sequence

All land dedications shall be made before final plat approval. A final plat shall not be released for recording until the deed for a land dedication is received. Deeded land is dedicated public park or recreational land and not subject to any right of reversion or refund. A monetary contribution in lieu of land shall be payable before final plat approval.

#### E. Applicability

The requirements of this subsection shall apply to all new subdivisions and replats of subdivisions which contain any lot sizes of less than one acre in area. It shall not apply to any said development where all lot sizes exceed one acre in area.

EMERGENCY CLAUSE. Because the existing regulation governing Zoning Districts does not provide for reduced lot sizes, and because of recent developments in the rapidly growing and highly active residential housing market and in order to best preserve the health and welfare of the citizens of Elm Springs, there is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of health

and welfare of the citizens of the City of Elm Springs, Arkansas shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 18 day of April, 2005

APPROVED

Jane Waters  
Mayor Jane Waters

ATTEST

Glenda Pettus  
Glenda Pettus, City Clerk/ Recorder

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Blenda Pittus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-03 (the "Reduced Lot Size Ordinance") was, on the 2<sup>nd</sup> day of May, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 9<sup>th</sup> day of May, 2005.

Jane Waters  
Mayor

Blenda Pittus  
City Clerk

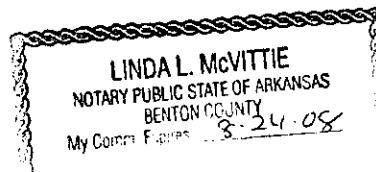
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 9<sup>th</sup> Day of May, 2005.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2005-04

CITY OF ELM SPRINGS, ARKANSAS

**AN ORDINANCE TO AMEND SECTION X, PARAGRAPH 1  
OF ORDINANCE 93-5-A, THE ZONING ORDINANCE  
AND DECLARING AN EMERGENCY**

WHEREAS, the City Council of Elm Springs, Arkansas deems it necessary to amend the Zoning Ordinance to change various requirements thereunder; and

WHEREAS, the Elm Springs Planning Commission has determined after lengthy study to establish updated guidelines for the Ordinance,

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

Section X, Paragraph 1 of Ordinance 93-5-A, the Zoning Ordinance of the City of Elm Springs, Arkansas, shall be amended to read as follows:

**SECTION X -SPECIAL PROVISIONS**

1. Accessory Structures and Uses

A. An accessory building may be constructed or placed on a lot containing a residential structure in Zones R-1, R-1A, R-2, and R-0, Subject to the following terms and conditions:

1. All detached buildings and structures shall comply with the governing building setbacks and be located to the rear of the extended front of the residence, except as approved by the Planning Commission.
2. No detached building shall exceed the lesser of the existing building peak height or the maximum height allowed in the Zoning Ordinance for the zone it occupies unless approved by the Planning Commission.
3. Minimum separation from the existing building shall be 15 feet, measured from the outer edge of any eaves, porch covers or overhangs on both buildings. Ground level patios and slabs are specifically exempted from this requirement, except that the 15 foot minimum separation shall apply.

4. All accessory buildings shall be reviewed and approved by the Enforcement Officer. All accessory buildings requiring inspection by Ordinance shall be subject to the existing building permit regulations and charges. Any building exceeding 600 square feet in floor area shall be subject to review by the Planning Commission. The Planning Commission shall review the location, size, structural and exterior material, appearance as well as other features of the proposed building, and shall determine if the proposed building is appropriate and compatible considering, but not limited to the following factors: the visibility of the proposed structure; the compatibility of the proposed structure with surrounding uses and structures, and the uses and structures in the community; the size of the proposed structure relative to the lot and open space upon which it would be located, and the compatibility of proposed use in the neighborhood in which the structure is proposed.
5. Prefabricated portable outbuildings shall be allowed if approved by the Enforcement Officer as structurally sound and compatible with the applicable zoning regulations, provided they are anchored to permanent footings or slabs with no wooden part of the structure resting on soil.
6. All accessory buildings shall be made and maintained structurally sound and weather proof, made of suitable permanent materials compatible or harmonious with existing buildings and zoning regulations, and presenting an appearance esthetically consistent with its surroundings. All accessory buildings shall be subject to the same requirements for maintenance and safety as the primary structure on the property.
7. The accessory building may not be used as a residence, bedroom or living quarters except as specifically approved by the Planning Commission and in cases where all codes and regulations pertaining to residential structures shall apply to the accessory building and it will not adversely affect surrounding property.
8. All accessory buildings of any nature, including gazebos, pool dressing rooms and the like shall be governed by this Ordinance.
9. Open sheds and lean-tos shall be permitted, provided the open side is not visible from the street. The open side of Carports may be visible from the street.
10. Any review required by the Planning Commission for the approval of an accessory building shall require proof of notification of adjoining property owners at the time of the review. It is the responsibility of the applicant to provide proof of notification. Proof of notification of each adjoining property owner must be provided to the Enforcement Official at least seven (7) days prior to Planning Commission Meeting at which the structure would be approved.

B. An accessory building may, in addition to the above uses, provide shelter for a horse on a residential lot with a minimum area of 2 acres provided:

1. The building is at least 100 feet from all adjacent property lines.
2. No more than two horses are kept and sheltered on the property.
3. Stall area does not exceed 300 square feet.

**EMERGENCY CLAUSE.** Because the existing regulation governing Accessory Structures does not provide for review and inspection and confusion regarding the existing Ordinances exists, and because of the rapid growth and extremely active residential housing market; and because the health and welfare of residents are affected by the uncontrolled construction of buildings on City lots, it is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of health and safety of the citizens of the City of Elm Springs, Arkansas shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 18 day of April, 2005

APPROVED

Jane Waters  
Mayor Jane Waters

ATTEST

Glenda Pettus  
Glenda Pettus, City Clerk/ Recorder

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-04 (the "Amend Zoning 93-S-A Ordinance") was, on the 2<sup>nd</sup> day of May, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 9<sup>th</sup> day of May, 2005.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

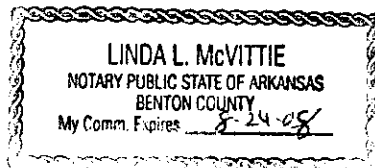
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 9<sup>th</sup> Day of May, 2005.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2005- 10

CITY OF ELM SPRINGS, BENTON COUNTY, ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE ATTACHED LEGAL DESCRIPTION AND KNOWN AS "THE GLEN CANUP PROPERTY", NOW OWNED BY BARRY GRAVES, LOCATED IN THE CITY OF ELM SPRINGS, BENTON COUNTY, ARKANSAS

WHEREAS, an Application for Rezoning was submitted and filed with the City of Elm Springs by Larry Smith and Barry Graves requesting that the City Council to rezone the property described therein and herein from A-1, Agricultural, to R-1A, Residential; and

WHEREAS, after due notice as required by law, the Elm Springs Planning Commission has, on July 11, 2005, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

WHEREAS, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

NOW THEREFORE, BE IT ENACTED, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from A-1, Agricultural, to R-1A, Residential.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

PASSED AND APPROVED this 15 day of August, 2005.

APPROVED:

  
\_\_\_\_\_  
Jane Waters, Mayor

Attest:

  
\_\_\_\_\_  
Glenda Pettus, City Clerk



**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

The East Half of the Southeast Quarter (E  $\frac{1}{2}$  of the SE  $\frac{1}{4}$ ) and the East Half of the Southwest Quarter of the Southeast Quarter (E  $\frac{1}{2}$  of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ ) of Section Twenty-Three (23) in Township Eighteen (18) North, Range Thirty-One (31) West, containing one hundred acres, more or less.

Subject to easements, rights-of-way, and protective covenants of record, if any.

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-10 (the "Rezone Campus Property Ordinance") was, on the 17<sup>th</sup> day of August, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 17<sup>th</sup> day of August, 2005.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

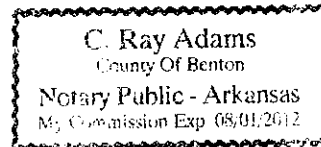
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 17<sup>th</sup> Day of August, 2005.

C. Ray Adams  
Notary Public

My Commission Expires:

06-01-2012



ORDINANCE NO. 2005- 11

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE ATTACHED LEGAL DESCRIPTION AND KNOWN AS THE ESTATES AT BRUSH CREEK, OWNED BY REAL SOURCES, INC., LOCATED IN THE CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

WHEREAS, an Application for Rezoning was submitted and filed with the City of Elm Springs by Real Sources, Inc. requesting that the City Council to rezone the property described therein and herein from A-1, Agricultural and R-1 Residential, to R-1A, Residential; and

WHEREAS, after due notice as required by law, the Elm Springs Planning Commission has, on August 8, 2005, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

WHEREAS, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

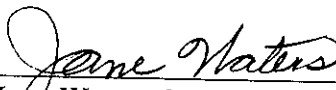
NOW THEREFORE, BE IT ENACTED, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from A-1, Agricultural, and R-1, Residential to R-1A, Residential.

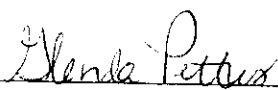
Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

PASSED AND APPROVED this 31 day of August, 2005.

APPROVED:

  
\_\_\_\_\_  
Jane Waters, Mayor

Attest:

  
\_\_\_\_\_  
Glenda Pettus, City Clerk

## EXHIBIT "A"

### DESCRIPTION OF PROPERTY

Part of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) and Part of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section 32, Township 18 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, more particularly described as follows:

COMMENCING at the Northwest Corner of said Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4); THENCE South 87 degrees 02 minutes 59 seconds East, 344.45 feet along the North line of said Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) to the POINT OF BEGINNING, said point being the Northerly Extension of a North/South fence on the South side of the North line of said Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4); THENCE South 87 degrees 02 minutes 59 seconds East, 315.55 feet; THENCE South 02 degrees 29 minutes 10 seconds West, 324.43 feet; THENCE South 87 degrees 30 minutes 50 seconds East, 11.61 feet to a gate post; THENCE Southerly, Westerly, and Northerly along an existing fence the following courses (bearing and distance); South 01 degrees 55 minutes 42 seconds West 162.75 feet, South 02 degrees 39 minutes 58 seconds West 222.38 feet, South 02 degrees 59 minutes 41 seconds West 148.77 feet, South 02 degrees 23 minutes 48 seconds West 218.11 feet, South 02 degrees 43 minutes 42 seconds West 264.18 feet, North 87 degrees 55 minutes 28 seconds West 210.92 feet, North 87 degrees 29 minutes 16 seconds West 155.76 feet, North 87 degrees 23 minutes 12 seconds West 289.05 feet, North 02 degrees 22 minutes 14 seconds East 297.97 feet, North 02 degrees 45 minutes 43 seconds East 101.38 feet, North 03 degrees 20 minutes 28 seconds East 283.43 feet; THENCE leaving said fence South 87 degrees 05 minutes 16 seconds East, 311.22 feet; THENCE South 88 degrees 44 minutes 00 seconds East, 13.65 feet to a fence corner; THENCE Northerly along an existing fence the following courses (bearing and distance); North 03 degrees 09 minutes 47 seconds East 77.03 feet, North 02 degrees 27 minutes 21 seconds East 162.26 feet, North 02 degrees 20 minutes 24 seconds East 114.47 feet, North 01 degrees 37 minutes 09 seconds East 49.29 feet, North 02 degrees 42 minutes 39 seconds East 260.21 feet to the POINT OF BEGINNING.

Contained within said bounds, 15.161 acres, more or less.



**Real Sources, Inc.**

1310 West Main Street  
Russellville, AR 72801

August 24, 2005

Reference: The Estates at Brush Creek

To Whom It May Concern:

In an effort to comply with the City's requirement for lots within a minimum of 300 feet from Elm Springs Road, the following is The Estates at Brush Creek, L.L.C.'s pledge and proposed plat change to the city to meet those standards:

1. LAND USE. Lot numbers 1 and 2 and Lot numbers 19 and 20 shall be combined from four lots to become two lots of greater than one acre each. The change is to ensure that the lots along Elm Springs Road, within a minimum of 300 feet from the Elm Springs Road Right of Way (ROW) south will be maintained at a greater than one half acre size and is consistent with the City's zoning requirement.

2. PROPERTY LINE ADJUSTMENT. Concurrent with approval of The Estates at Brush Creek as platted, property owners/developer is filing with the City of Elm Springs property line adjustments on stated lots to combine the lots as detailed above.

Please advise should there be anything else that is in question that needs revision.

Sincerely,

The Estates at Brush Creek, LLC

A handwritten signature in black ink, appearing to read 'Jim P. Knight', is written over a circular stamp or mark.

By:  
Jim P. Knight, Managing Member

JPK/pg

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-11 (the "Rezone Brush Creek Subdivision Ordinance") was, on the 2<sup>nd</sup> day of September, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 2<sup>nd</sup> day of September, 2005.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

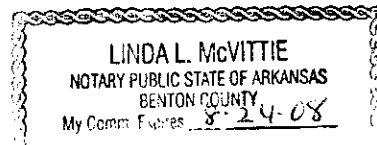
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 2  
Day of September, 2005.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2008-18

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE TO AMEND THE R-1A ZONING ORDINANCE  
TO ESTABLISH A NEW BUILDING SETBACK AND  
LIMIT R-1A REZONING TO CERTAIN AREAS  
AND DECLARING AN EMERGENCY

**WHEREAS**, the City Council of Elm Springs, Arkansas deems it necessary to amend the R-1A Zoning Ordinance to reduce the front building setback distance; and

**WHEREAS**, the Elm Springs Planning Commission has determined that it would be in the best interest of the City and its residents to limit R-1A zoning to certain areas of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

Section VI.1 of the Zoning Ordinance is hereby amended to read:

**SECTION VI.1 –DISTRICTS**

5. Yard and Area Requirements

The yard and area requirements listed in Section VI.5 shall be as follows for R-1A zoning district:

ZONING DISTRICT AND USE: R-1A, Single Family

LOT AREA: Minimum Size; One Half Acre

Per Family; One Half Acre

MINIMUM LOT WIDTH: One Half Acre to 0.74 Acre; 85 feet  
0.75 Acre and Larger; 100 feet.

MINIMUM BUILDING SETBACKS: Front; 30 feet

Side; 10 feet

Back; 25 feet

MAXIMUM HEIGHT: 2 ½ Stories, or 35 feet

**EMERGENCY CLAUSE;** Because the existing regulation governing Zoning Districts does not provide for reduced lot sizes; and because the health and welfare of residents are affected by the absence of said R-1A zoning district, it is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of health and welfare of the citizens of the City of Elm Springs, Arkansas shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 19<sup>th</sup> day of December, 2005.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

**ATTEST:**

Glenda Pettus  
Glenda Pettus, City Clerk/Recorder



**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-18 (the "Amend R-1A Zoning Ordinance") was, on the 30 day of December, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 30 day of December, 2005.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

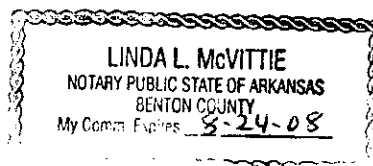
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 30th Day of December, 2005.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2006- 01

**CITY OF ELM SPRINGS, WASHINGTON COUNTY & BENTON COUNTY,  
ARKANSAS**

**AN ORDINANCE REZONING THE PROPERTY DESCRIBED HEREIN, NOW OWNED BY NEIL AND CATHY GIERACH, LOCATED AT 605 ELM SPRINGS ROAD, IN THE CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS, AND DECLARING AN EMERGENCY**

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by Neil and Cathy Gierach, assisted by Terry Carpenter, requesting that the City of Elm Springs rezone the property described below, ~~the front 300 feet from R-1 to C-1 and the remainder from A-1 to R-O;~~ and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on February 13, 2006, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the following legal description is hereby changed to C-1, for the first three hundred feet (300') beginning at the Elm Springs Road property line going south, and then to R-O for the remainder of the property:

**LEGAL DESCRIPTION:**

A Part of the Fractional Southwest Quarter of the Fractional Northwest Quarter of Section 30, Township 18 North, Range 30 West, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of the Fractional Southwest Quarter of the Fractional Northwest Quarter; thence along the North line of said Fractional Forty, N 89° 21' 42" E a distance of 33.35 feet to the Point of Beginning; thence continuing along North line of said Fractional Forty, N 89° 21' 42" E a distance of 86.70 feet to a set rebar; thence leaving North line of said Fractional Forty, S 00° 03' 48" W a distance of 337.57 feet to a set rebar; thence N 89° 21' 42" E a distance of 129.00 feet to a set rebar; thence S 00° 03' 48" W a distance of 436.54 feet to an existing rebar; thence N 89° 32' 54" W a distance of 254.43 feet to a set rebar on the

West line of the Fractional Southwest Quarter of the Fractional Northwest Quarter; thence along said West line, N 00° 27' 54" E a distance of 168.40 feet; thence leaving aforesaid West line, N 89° 12' 04" E a distance of 33.35 feet; thence N 00° 27' 54" E a distance of 600.85 feet, back to the Point of Beginning, containing 3.00 acres, more or less, and being subject to road rights-of-way and easements of record.

Section 2. A diagram of the property which is rezoned is attached hereto, and incorporated herein.

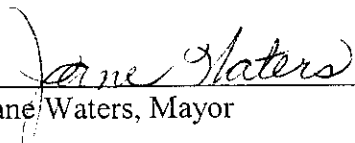
Section 3. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

Section 4. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

Section 5. Emergency Clause The City Council finds that this ordinance is vital to the efficient development of the property within the City of Elm Springs, and the health, safety and welfare of its citizens is best served if this ordinance becomes effective immediately upon its passage and the City Council declares that an emergency exists, and orders that this ordinance be in full force and effect immediately upon its passage.

**PASSED AND APPROVED** this 20 day of February, 2006.

**APPROVED:**

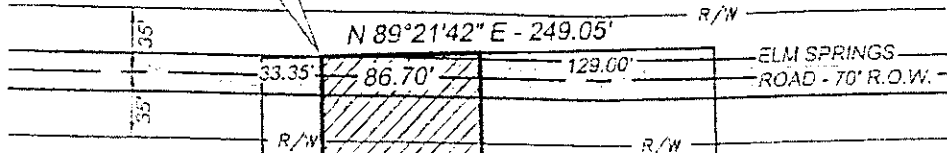
  
\_\_\_\_\_  
Jane Waters, Mayor

Attest:

  
\_\_\_\_\_  
Glenda Pettus, City Clerk

N/W CORNER  
FRAC. SW 1/4, FRAC NW 1/4  
SECTION 30-T19N-R30W

P 750-00579-000  
VIRGINIA DETMER



P 750-00582-010  
LEO DALE  
MONTGOMERY

750-00736-000  
CARPENTER  
CONSTRUCTION, INC.

CURRENT ZONING: R-1  
PROPOSED ZONING: C-1  
300' FROM C OF ROAD

750-00582-000  
STEFANIE &  
DEREK WILSON

750-00582-001  
CITY OF ELM SPRINGS

N 00°27'54" E - 600.94'

S 00°27'54" W - 600.85'

N 00°03'48" E - 337.57'

S 89°21'42" W  
129.00'

S 00°03'48" W - 337.57'

S 89°12'04" W  
33.35'

750-00582-002  
LEO DALE  
MONTGOMERY

S 00°03'48" W - 436.54'

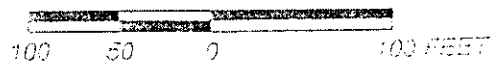
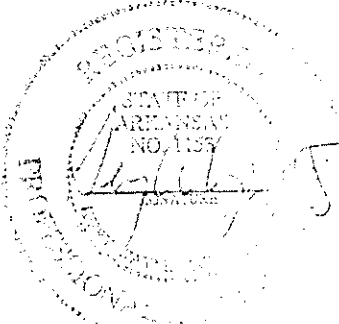
750-00760-000  
JAMES & LOIS  
HURLBUT

CURRENT ZONING: A-1  
PROPOSED ZONING: R-O

N 00°27'54" E - 168.41'

N 39°32'54" W - 254.43'

750-00584-000  
JAMES & LOIS  
HURLBUT



07-11-00

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2006-010 (the "Rezone 605 Elm Springs Rd Ordinance") was, on the 2<sup>nd</sup> day of March, 2006, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 2<sup>nd</sup> day of March, 2006.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

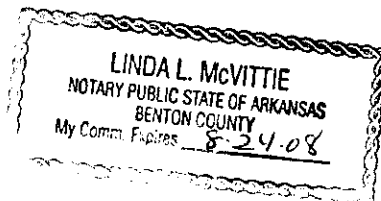
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 2 Day of March, 2006.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2006- 02

CITY OF ELM SPRINGS, WASHINGTON COUNTY & BENTON COUNTY,  
ARKANSAS

**AN ORDINANCE TO AMEND THE SECTION OF THE ELM SPRINGS ZONING  
ORDINANCE PERTAINING TO THE SIGN WHICH MUST BE PLACED ON PROPERTY  
FOR WHICH AN APPLICATION FOR REZONING HAS BEEN MADE, AND  
DECLARING AN EMERGENCY**

**WHEREAS**, the City of Elm Springs Zoning Ordinance, at section XII (5) requires that a sign must be displayed on property which is the subject of an application for rezoning, and it requires certain dimensions and lettering; and

**WHEREAS**, the Planning Commission, after due consideration of this requirement, finds that the dimensions and lettering requirements are out of date and should be updated and adjusted so that such notice signs more efficiently produced by staff, and has recommended the following amendment to the City Council.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The Elm Springs Zoning Ordinance, which is number 97-001, as amended, is hereby amended to remove the language, found at Section XII (5), pertaining only to the size of the sign and size of the lettering of the sign which must be posted, and replace that language with the following language:

“The City shall provide the sign which shall contain the words, “REZONING PETITION ON THIS PROPERTY” as well as other information deemed appropriate by the Planning Commission or its staff, and the sign shall be of sufficient size and format that it is clear and readable by the public.”

Section 2. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

Section 3. Emergency Clause The current notice signage requirements are out dated and burdensome and must be changed to insure the smooth and efficient application of land use ordinances in the City of Elm Springs, and The City Council finds that this ordinance is vital to the efficient operation of the city, and protection of the health, safety and welfare of its citizens is best served if this ordinance becomes effective immediately upon its passage and the City Council

declares that an emergency exists, and orders that this ordinance be in full force and effect immediately upon its passage.

**PASSED AND APPROVED** this 20 day of February, 2006.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2006-02 (the "Rezone Sign Size Ordinance") was, on the 2<sup>nd</sup> day of March, 2006, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 0110 and that the Ordinance remained posted for thirty (30) days.

DATED this 2<sup>nd</sup> day of March, 2006.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

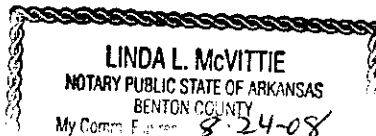
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 2 Day of March, 2006.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08





ORDINANCE NO. 2006- 04

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE ATTACHED DESCRIPTION AND KNOWN AS "Elm Springs Meadows Subdivision", NOW OWNED BY FADIL AND AHMAD BAYYARI, LOCATED IN THE CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS**

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by Fadil and Ahmad Bayyari requesting that the City Council to rezone the property described therein and herein from A-1, Agricultural, to R-1, Residential; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on May 15, 2000, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from A-1, Agricultural, to R-1, Residential.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

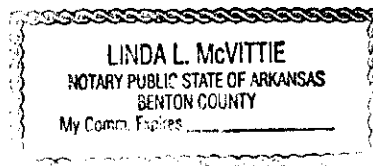
**PASSED AND APPROVED** this 17 day of April, 2006.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk



## EXHIBIT "A"

### DESCRIPTION OF PROPERTY

Part of the North  $\frac{1}{2}$  (N1/2) of the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4) and the North  $\frac{1}{2}$  (N1/2) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) of Section thirty (30), Township Eighteen (18) North, Range Thirty (30) West, Washington County, Arkansas being more particularly described as follows: Commencing at a set magnetic nail and metal flasher, said nail used as the Northeast corner of the N1/2 of the NW  $\frac{1}{4}$  of said SE  $\frac{1}{4}$ ; thence South  $01^{\circ} 11' 33''$  West a distance of 190.77 feet to a set magnetic nail and metal flasher and the POINT OF BEGINNING (P.O.B.); thence continue South  $01^{\circ} 11' 33''$  West a distance of 471.70 feet to a set magnetic nail and flasher; thence North  $88^{\circ} 18' 47''$  West a distance of 1312.40 feet to a found P-K nail in the top of a fence post; thence North  $88^{\circ} 26' 37''$  West a distance of 1324.89 feet to a found  $\frac{1}{2}$  inch diameter iron pin; thence North  $00^{\circ} 55' 21''$  East a distance of 655.03 feet to a found  $\frac{5}{8}$  inch diameter iron pin; thence South  $88^{\circ} 32' 26''$  East a distance of 1321.37 feet to a set  $\frac{5}{8}$  inch diameter iron pin; thence South  $88^{\circ} 32' 26''$  East a distance of 835.90 feet to a set  $\frac{5}{8}$  inch diameter iron pin; thence South  $01^{\circ} 11' 13''$  West a distance of 190.77 feet to a set  $\frac{5}{8}$  inch diameter iron pin; thence South  $88^{\circ} 32' 26''$  East a distance of 483.09 feet to the POINT OF BEGINNING, containing 38.64 acres, more or less, and subject to the right-of-way of Lakeview Road along the East boundary thereof.

April 24, 2000

The Planning Commission called meeting: Those present were: James Crownover, Glenn Canup, Bill Carver, Danelle Carpenter, Attorney, Wayne Krug, Steve Sabo, Coy Patton and Craig Hull. Members from the City Council present were: Mayor Thiesse, Marty Thiesse, and Allen Holcomb.

James Crownover called the meeting to order and the first item of business was the Pinkley Subdivision. The water hydrants were placed at 520 feet instead of 500 feet. The street has passed Steve Sabo's inspection. Concern to city is the drainage from the Pinkley Subdivision to the County Line road on the North. Leonard Gabbard, Engineer representing Terry Pinkley, was not present and this item of business was tabled until he arrived at the meeting.

#### **ELM SPRINGS MEADOWS SUBDIVISION:**

The second item of business was the Elm Springs Meadows Subdivision being developed by Fadil and Ahmad Bayyari. Mr. Gabbard, who is also representing the Bayyaris, is now present and presented his Hydraulics report and the revised plat showing lots 1 and 28 being increased in size to one acre. The Planning Commission advised Mr. Bayyari that lots 1 and 28 must be curbed and guttered on the East side the full length of the subdivision (excluding the entrance) running along Lakeview Road. Also, the developers would be responsible for the pavement on Lakeview Road being 35 feet from the center line of Lakeview to the curb on Elm Springs Meadows subdivision (or 32 feet back of curb to back of curb) since this will be a Minor Arterial Street. "A" Street will be paved 28 feet asphalt to asphalt. Fadil Bayyari agreed to this. We discussed off-site improvements and did not deem increase in traffic along Lakeview Road as to be enough to require off site improvements at this time. Glenn Canup made a motion that the Planning Commission not ask for any off-site improvements beyond property boundaries. Motion was seconded by Coy Patton and was passed. The Mayor stated that the gas lines run along the west side of road and the city water lines are on the East side of Lakeview Road. We discussed sidewalks that would also need to be placed on the East side of the subdivision next to Lakeview Road. Mr. Bayyari said that would be no problem as it is written in his restrictions and covenants and is the home owners responsibility to install sidewalks when they build. The length of the cul-de-sac was discussed. Mr. Gabbard stated that due to the one acre minimum of the lots, geographically, the subdivision does not allow two streets and that it was more appropriate for a cul-de-sac. A motion was made by Glenn Canup that we allow a variance for the length of the cul-de-sac and let it remain as platted. Seconded by Bill Carver. Motion passed and variance granted. There was concern about the complete subdivision needing to be zoned R-1. Most of it is with the exception of the far west side. The question was asked of our attorney, Mr. Krug, "could we use the complete legal description for the subdivision in lieu of having a new survey and legal description drawn up for only the section that was not already zoned R-1?" Mr. Krug stated that we could do this. Steve Sabo said he would get the posting ready for the newspaper and take it to the Morning News on April 25, 2000. It will

be in the April 26th newspaper. This will give Mr. Bayyari time - and he will be responsible for posting notices and notifying the adjacent landowners of rezoning in time for the next Planning Commission. This must be done 15 days prior to the next meeting which was re-scheduled for May 15, 2000. All utilities for this subdivision will be underground - Ozarks Electric, Springdale City Water and Arkansas Western Gas. We do not know what telephone company this will be as GTE in Elm Springs has recently sold. There will be an 8 inch water line and the plat was revised to show Water Hydrants on the following lots: Lot #28, Between lots #22 & 23, between lots #26 & 27, between lots #18 & 19, and between lots # 15 & 16. The plat was also revised to show Street lights on the following lots: 1, 4, 9, and between lots 13 & 14. These lights will be installed on the lot line. This subdivision is subject to approval after notifications are made and voting at our next meeting. Attached are the following: Application To Request Zoning Amendment; and Exhibit "A"- Rezoning & Variance Request Application for Fadil and Ahmad Bayyari.

#### **PINKLEY SUBDIVISION:**

Leonard Gabbard, now representing Terry Pinkley, stated that a ditch needed to be established along County Line Road and the culvert cleaned out. He also thought that the culvert should be upsized. Mr. Gabbard asked the Mayor if the City would be responsible for establishing the ditches and cleaning out the culvert if Mr. Pinkley would furnish an additional culvert and be responsible for establishing grass and staking out hay bales to keep silt from his subdivision draining onto County Line Road. The Mayor said he was sure they would. Glenn Canup made the motion that Phase III of the Pinkley Subdivision be approved subject to the above being completed. Bill Carver seconded and the motion passed.

#### **LAKEVIEW ACRES:**

No one present to represent subdivision-did not discuss.

#### **BURKE SUBDIVISION:**

Tom Lundstrum submitted a Curb and Gutter Improvement drawing from Jorgensen and Associates, Inc. which is attached. Tom asked that he get approval on his subdivision subject to his furnishing a Letter of Assurance stating water would not drain across Lakeview Road. Our attorney said he would need a Street Maintenance Bond for as long a term as possible (1 year) and we would need a letter of assurance from Tom to cover the remaining period of time requested, which would be the 2nd through the 5th year. Mr. Lundstrum is to bring this to the next City Council Meeting in May. Burke Subdivision is already zoned R-1. Mr. Crownover proposed that the plat be accepted subject to the drainage improvements, installation of lights and the above documents being presented to the City Council in May.

**Coy Patton made a motion that we adjourn. Glenn Canup seconded and meeting adjourned. We went to the meeting concerning the Sewer Study in the adjoining room.**

**Minutes submitted by Danelle Carpenter, Planning Commission 4/24/2000.**

## **ELM SPRINGS PLANNING COMMISSION MEETING, MAY 15, 2000**

James Crownover called meeting to order and those present were: Steve Sabo, Glenn Canup, Randy McFadden, Coy Patton and Danelle Carpenter. Also attending was City Attorney, Wayne Krug, Mayor, Ed Thiesse and Craig Hull.

### **→ ELM SPRINGS MEADOWS SUBDIVISION:**

Mr. Fadil Bayyari, developer, presented his preliminary plat for Elm Springs Meadows Subdivision. Mr. Crownover asked for comments from anyone concerning the re-zoning of this property from Agriculture to Residential single family dwellings. Mr. Leonard Gabbard, Engineer representing Mr. Bayyari, was asked to explain the hydraulics for the subdivision. The developer was asked to install a childproof grate on the East side of Lakeview Road because of the large underground storm sewer. All utilities, with the exception of the Water Dept., have signed off on this subdivision. Developer was asked to get the water lines on the plat and correct the street width to 32'-also the flood plains and the floor elevation to be noted on each lot - and lot 22 needs notation concerning drainage.. All perk test have been made. Mr. Crownover noted that there had been a public notice for re-zoning from A to R-1. Glenn Canup made a motion that the Planning Commission accept R-1 zoning subject to the above mentioned improvements being made. Motion was seconded by Coy Patton and was passed. These documents will now go to the City Council for their approval.

### **LAKEVIEW ACRES SUBDIVISION: (North off of Gibbs Road)**

This subdivision was represented by developer, Billy Moore and Tim Sorey, Engineer for Sand Creek Engineering Firm, 1610 NW 12th Street, Bentonville, AR 72712. Phone 464-9282-Fax 464-9284. They asked for a variance on the lot sizes and were told that the Elm Springs ordinances require a one acre lot for each home. They show 7 lots on their preliminary plat. After correcting each lot to one acre or more, they will have 6 total lots. They asked for variance on their cul-de-sac turn-around. We did not have anyone in attendance from the Fire Department to advise us on this. Mr. Moore asked for a variance on paving the street. He wanted to install a gravel road. Mr. Crownover stated that all Elm Springs Subdivision streets must be paved and have curb and gutter at the cost of the developer. Mr. Moore said that this would not be a thru street and would not be an access street to the lake. He wanted it to be a private street which would be maintained by his son who would live in the subdivision. Steve Sabo said the property must be posted for public hearing in accordance with Elm Springs preliminary plat rules; all street lights must be shown on the plat as well as perk test results and lots corrected to be one acre or more. Mr. Moore stated that Washington County had passed the plat with several notations and had given them a waiver on the width of the frontage of the lots. Mr. Crownover stated that this subdivision was in the Elm Springs growth area and that we would ask for a paved street and curb and gutter. Mr. Sorey had planned for 12 inches of compacted sub grade and 12 inches of compacted crushed stone. The Planning Commission is concerned with residents in the future wanting

the street paved and that it would then be up to the city to do so and then to maintain the street. Danelle Carpenter stated that in our past meetings we had decided to strictly stick to the rules and regulations that had been set down for all new subdivisions and we would treat each developer the same. Mr. Moore said that he could petition the City of Springdale to go into their city limits. Motion was made by Coy Patton that we table this discussion - take the plat home and study it and bring this discussion back to the table at our next meeting in June. He asked that Mr. Moore have all the proper notations made on his plat. Motion was seconded by Glenn Canup and was passed.

#### **YOUTH WITH A MISSION:**

The subject of the new school building was brought up and it was suggested that we write them a letter and let them send us their plans as they were under our jurisdiction. Steve Sabo said that Benton County regulates large scale developments and that this planning should go through them. and that we have no jurisdiction. Our attorney, Mr. Krug, agreed.

#### **MASTER STREET PLAN:**

Mr. Crownover passed out a 4 page study and plan, which we have discussed in former meetings, for the City of Elm Springs. He asked that we go over this before coming to the next Planning Commission meeting. This study will be attached to and a part of these minutes.

#### **ORDINANCE TO AMEND THE ELM SPRINGS SUBDIVISION ORDINANCE OF JULY 7, 2000.**

Attorney, Mr. Krug, passed out the above ordinance for our recommendation. This ordinance will be attached and a part of these minutes. It was discussed that we should vote on a change from a 5 year street bond to a 1 year bond and that in the future it would be wise for the City of Elm Springs to hire an engineer to go over the street plans of any new subdivision. The actual tests being done would be at the expense of the developer, but the City Engineer would be paid by the City of Elm Springs. Our engineer would review the final technical specs from each developer after the necessary tests had been completed. A motion was made by Glenn Canup that we accept this ordinance. It was seconded by Randy McFadden and passed. It would now go to the City Council for voting.

As the Planning Commission had run overtime, Coy Patton made a motion that we adjourn. Seconded by Glenn Canup and passed.

**MINUTES SUBMITTED BY DANELLE CARPENTER  
MAY 16, 2000**

## EXHIBIT 'A'

### Rezoning & Variance Request Application for Fadil and Ahmad Bayyari

1. Record Title holder of the property:

**Fadil & Ahmad Bayyari  
P.O. BOX 6250  
Springdale, Arkansas 72766**

2. Zoning classification requested for property

**Single Family Residential R-1**

3. A brief statement explaining the reason for the zoning request, the intended use of the property, and the effect of property changes upon surrounding land use.

**The reason for the zoning is to allow for the building of large estate type single family residential development. The effect upon adjacent property should be positive, increasing land values all around.**

4. Layman's Description

**Approximately 38.64 acres located West of Lakeview Road between East Lake Road and Elm Springs. This is property formerly owned by the Mayor.**

5. Accurate Legal Description

**Part of the North ½ (N ½) of the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼) and the North ½ (N ½) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) of Section Thirty (30), Township Eighteen (18) North, Range Thirty (30) West, Washington County, Arkansas being more particularly described as follows: Commencing at a set magnetic nail and metal flasher, said nail used as the Northeast corner of the N ½ of the NW ¼ of said SE ¼; thence South 01°11'33" West a distance of 190.77 feet to a set magnetic nail and metal flasher and the POINT OF BEGINNING (P.O.B.); thence continue South 01°11'33" West a distance of 471.70 feet to a set magnetic nail and flasher; thence North 88°18'47" West a distance of 1312.40 feet to a found P-K nail in the top of a fence post; thence North 88°26'37" West a distance of 1324.89 feet to a found ½ inch diameter iron pin; thence North 00°55'21" East a distance of 655.03 feet to a found 5/8 inch diameter iron pin; thence South 88°32'26" East a distance of 1321.37 feet to a set 5/8 inch diameter iron pin; thence South 88°32'26" East a distance of 835.90 feet to a set 5/8 inch diameter iron pin; thence South 01°11'13" West a distance of 190.77 feet to a set 5/8 inch diameter iron pin; thence South 88°32'26" East a distance of 483.09 feet to the POINT OF BEGINNING, containing 38.64 acres, more or less, and subject to the right-of-way of Lakeview Road along the East boundary thereof...**

6. A scaled drawing of the property showing the accurate lot lines, surrounding zoning, adjacent owners names and a north arrow.



PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2006-04 (the "Rezone Elm Springs Meadows Ordinance") was, on the 2 day of May, 2006, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 2 day of May, 2006.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

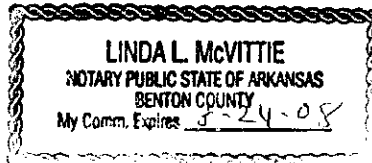
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 2 Day of May, 2006.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2006- 05

CITY OF ELM SPRINGS, BENTON & WASHINGTON COUNTIES, ARKANSAS

**AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE ATTACHED LEGAL DESCRIPTION NOW OWNED BY THE ELM SPRINGS METHODIST CHURCH, LOCATED IN THE CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS**

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by the Elm Springs Planning Commission requesting that the City Council rezone the property described herein from C, Commercial, to R-2, Residential; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on May 8, 2006, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the attached Exhibit "A" which is incorporated herein by reference is hereby changed from C, Commercial, to R-2, Residential.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

Section 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

**PASSED AND APPROVED** this 19 day of June, 2006.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk

ALL OF LOTS 1 AND 5 AND PART OF LOTS 2 AND 6, BLOCK 3 IN THE PLAT OF THE ORIGINAL TOWN OF ELM SPRINGS; ALSO PART OF LOTS 1, 2, 4, "DR. SUMMER'S LOT" AND COURT DRIVE IN COUNCILMEN'S ADDITION TO THE TOWN OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND IRON PIN AT THE SOUTHWEST CORNER OF LOT 3 IN SAID COUNCILMAN'S ADDITION; THENCE  $561^{\circ}23'06''$ E 126.07 FEET TO A FOUND RAILROAD SPIKE AT THE SOUTHEAST CORNER OF LOT 4 IN SAID COUNCILMAN'S ADDITION, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 1, BLOCK 3 IN SAID PLAT OF THE ORIGINAL TOWN OF ELM SPRINGS AND THE POINT OF BEGINNING; THENCE ALONG THE WEST LINE OF SAID LOT 1, BLOCK 3  $N28^{\circ}33'48''$ E 305.72 FEET; THENCE DEPARTING SAID WEST LINE  $N61^{\circ}03'33''$ W 126.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF MAIN STREET (STATE HIGHWAY #112); THENCE ALONG SAID RIGHT OF WAY LINE  $N28^{\circ}34'39''$ E 309.14 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE  $561^{\circ}19'36''$ E 229.86 FEET; THENCE  $561^{\circ}41'40''$ E 105.78 FEET; THENCE  $N28^{\circ}18'25''$ E 13.36 FEET TO A FOUND IRON PIN; THENCE  $562^{\circ}07'31''$ E 100.96 FEET TO A FOUND IRON PIN; THENCE  $561^{\circ}28'12''$ E 90.84 FEET TO A FOUND IRON PIN; THENCE  $557^{\circ}51'25''$ E 19.63 FEET TO A FOUND IRON PIN ON THE EAST LINE OF LOT 6, BLOCK 3 IN THE PLAT OF THE ORIGINAL TOWN OF ELM SPRINGS; THENCE ALONG THE EAST LINE OF LOTS 6 AND 5  $528^{\circ}34'08''$ W 627.53 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5, BLOCK 3 SAID POINT ALSO BEING ON THE NORTH RIGHT OF WAY LINE OF SCHOOL STREET; THENCE ALONG SAID RIGHT OF WAY LINE  $N61^{\circ}39'15''$ W 420.98 FEET TO THE POINT OF BEGINNING, CONTAINING 6.91 ACRES, MORE OR LESS, SUBJECT TO THE RIGHT-OF-WAY OF COURT DRIVE, AND ALSO SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

THE HEREON DESCRIBED PROPERTY IS SUBJECT TO A 10 FOOT WIDE ROADWAY EASEMENT ALONG THE EAST SIDE, AS SHOWN IN DOCUMENT No. 96 74679.

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2006-05 (the "Rezone Methodist Church Property Ordinance") was, on the 23 day of June, 2006, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 23 day of June, 2006.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

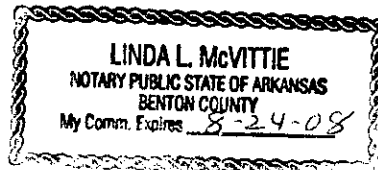
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 23 Day of JUNE, 2006.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2006- 08

CITY OF ELM SPRINGS, WASHINGTON COUNTY & BENTON COUNTY,  
ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED HEREIN, NOW KNOWN AS "THE WHITE PROPERTY," IN THE CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS, AND DECLARING AN EMERGENCY

WHEREAS, an Application for Rezoning was submitted and filed with the City of Elm Springs by the owners, assisted by Mike Million, requesting that the City of Elm Springs rezone the property described below; and

WHEREAS, after due notice as required by law, the Elm Springs Planning Commission has, on September 11, 2006, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

WHEREAS, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

NOW THEREFORE, BE IT ENACTED, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described in the following legal descriptions is hereby changed to R-1A (Residential):

SURVEY DESCRIPTION: (Tract A)

A part of Lot 7 in Block 3 of the Town of Elm Springs, Washington County, Arkansas, being more particularly described as follows, to-wit:

Commencing at the Southwest corner of said Lot 7 of Block 3; thence along the West line of said Lot 7 of Block 3, North 27°15'58" East a distance of 134.35 feet to a found cotton picker spindle in a 12" Butternut Hickory tree, marking the POINT OF BEGINNING; thence continue Northeasterly along said line, a distance of 131.06 feet to a found iron rebar and cap (PLS #1214); thence leaving said West line, South 63°45'36" East a distance of 175.00 feet to a set iron rebar; thence South 35°39'52" West a distance of 135.47 feet to a found iron rebar; thence North 62°48'04" West a distance of 155.19 feet to the POINT OF BEGINNING, containing 0.50 acres (21,863 square feet), more or less, and subject to any easements and/or rights-of-way, of record, if any.

SURVEY DESCRIPTION: (Tract B)

A part of Lot 7 and a part of Lot 8 in Block 3 of the Town of Elm Springs, Washington County, Arkansas, being more particularly described as follows, to-wit:

Commencing at the Southwest corner of said Lot 7 of Block 3; thence along the West line of said Lot 7 of Block 3, North 27°15'58" East a distance of 265.41 feet to a found iron rebar and cap (PLS #1214); thence leaving said West

line, South 63°45'36" East a distance of 175.00 feet to a set iron rebar; thence North 27°16'01" East a distance of 86.46 feet to a set iron rebar, marking the POINT OF BEGINNING; thence continue Northeasterly along said line, a distance of 45.36 feet to a set iron rebar on the North line of said Lot 7 of Block 3; thence along said North line, South 63°41'21" East a distance of 58.94 feet to a found iron rebar; thence leaving said North line, North 27°18'28" East a distance of 84.13 feet to a found iron rebar; thence South 63°41'21" East a distance of 146.25 feet to a set iron rebar; thence South 26°18'39" West a distance of 129.48 feet to a set iron rebar; thence North 63°41'21" West a distance of 207.41 feet to the POINT OF BEGINNING, containing 0.50 acres (21,755 square feet), more or less, and subject to any easements and/or rights-of-way, of record, if any.

SURVEY DESCRIPTION: (Tract C)

A part of Lot 7 and a part of Lot 8 in Block 3 of the Town of Elm Springs, Arkansas, also a part of the South Half of the Northeast Quarter (S 1/2, NE 1/4) in Section 25, in Township 18 North, of Range 31 West, Washington County, Arkansas, being more particularly described as follows, to-wit:

Commencing at the Southwest corner of said Lot 7 of Block 3; thence along the West line of said Lot 7 of Block 3, North 27°15'58" East a distance of 265.41 feet to a found iron rebar and cap (PLS #1214); thence leaving said West line, South 63°45'36" East a distance of 175.00 feet to a set iron rebar; thence North 27°16'01" East a distance of 86.46 feet to a set iron rebar; thence South 63°41'21" East a distance of 207.41 feet to a set iron rebar, marking the POINT OF BEGINNING; thence North 26°18'39" East a distance of 129.48 feet to a set iron rebar; thence South 63°41'21" East a distance of 140.56 feet to a found iron rebar; thence South 02°03'58" West a distance of 111.07 feet to a set iron rebar; thence South 24°59'24" West a distance of 28.22 feet to a set iron rebar; thence North 63°41'21" West a distance of 186.82 feet to the POINT OF BEGINNING, containing 0.50 acres (21,804 square feet), more or less, and subject to any easements and/or rights-of-way, of record, if any.

The zone classification of the property described in the following legal description is hereby changed to R-1A

SURVEY DESCRIPTION: (Tract D)

A part of Lot 7 in Block 3 of the Town of Elm Springs, Arkansas, also a part of the South Half of the Northeast Quarter (S 1/2, NE 1/4) in Section 25, in Township 18 North, of Range 31 West, Washington County, Arkansas, being more particularly described as follows, to-wit:

Commencing at the Southwest corner of said Lot 7 of Block 3; thence along the West line of said Lot 7 of Block 3, North 27°15'58" East a distance of 265.41 feet to a found iron rebar and cap (PLS #1214); thence leaving said West line, South 63°45'36" East a distance of 175.00 feet to a set iron rebar; thence North 27°16'01" East a distance of 101.82 feet to a set iron rebar; thence South 63°41'21" East a distance of 254.23 feet to a set iron rebar, marking the POINT OF BEGINNING; thence continue Southeasterly along said line, a distance of 140.00 feet to a set iron rebar; thence South 24°59'24" West a distance of 155.21 feet to a found 1" pinch pipe; thence North 64°0'12" West a distance of 140.00 feet to a set iron rebar; thence North 24°59'41" East a distance of 155.97 feet to the POINT OF BEGINNING, containing 0.50 acres (21,779 square feet), more or less, and subject to any easements and/or rights-of-way, of record, if any.

Section 3. The zone classification of the property described in the following legal description is hereby changed to C (Commercial):

SURVEY DESCRIPTION: (Tract E)

A part of Lot 7 and a part of Lot 8 in Block 3 of the Town of Elm Springs, Washington County, Arkansas, being more particularly described as follows, to-wit:

Commencing at the Southwest corner of said Lot 7 of Block 3; thence along the West line of said Lot 7 of Block 3,

North 27°15'58" East a distance of 134.35 feet to a found cotton picker spindle in a 12" Butternut Hickory tree; thence leaving said West line, South 62°48'04" East a distance of 155.19 feet to a found iron rebar, marking the POINT OF BEGINNING; thence North 35°39'52" East a distance of 135.47 feet to a set iron rebar; thence North 27°16'01" East a distance of 86.46 feet to a set iron rebar; thence South 63°41'21" East a distance of 254.23 feet to a set iron rebar; thence South 24°59'41" West a distance of 155.97 feet to a set iron rebar; thence North 64°0'12" West a distance of 46.28 feet to a found pinch pipe; thence South 29°21'49" West a distance of 74.97 feet to a found iron rebar and cap (PLS #1214); thence North 62°54'0" West a distance of 100.02 feet to a found iron rebar and cap (PLS #1214); thence South 29°15'48" West a distance of 104.63 feet to a set iron rebar on the proposed North right-of-way line of School Ave; thence along said North right-of-way line, North 63°21'22" West a distance of 127.70 feet to a set iron rebar; thence leaving said North right-of-way line, North 27°22'26" East a distance of 113.32 feet to the POINT OF BEGINNING, containing 1.63 acres (70,879 square feet), more or less, and subject to any easements and/or rights-of-way, of record, if any.

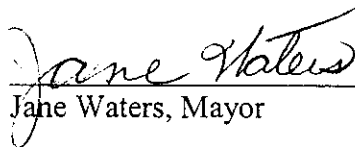
Section 4. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

Section 5. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.


Section 5. Emergency Clause The City Council finds that this ordinance is vital to the efficient development of the property within the City of Elm Springs, and the health, safety and welfare of its citizens is best served if this ordinance becomes effective immediately upon its passage and the City Council declares that an emergency exists, and orders that this ordinance be in full force and effect immediately upon its passage.

**PASSED AND APPROVED** this 18 day of September, 2006.

**APPROVED:**

  
\_\_\_\_\_  
Jane Waters, Mayor

Attest:

  
\_\_\_\_\_  
Glenda Pettus, City Clerk

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Blenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2006-08 (the "Rezoning White Property Ordinance") was, on the 22 day of September, 2006, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 22 day of September, 2006.

Jane Waters  
Mayor

Blenda Pettus  
City Clerk

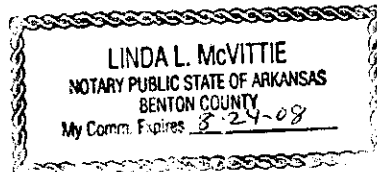
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 22 Day of Sept, 2006.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08





ORDINANCE NO. 2006-11

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES,  
ARKANSAS

AN ORDINANCE TO ESTABLISH COMMERCIAL PROPERTY  
DESIGN STANDARDS

WHEREAS, the Elm Springs Planning Commission has studied and discussed in its meetings the need for design standards to promote safe, orderly, functional and aesthetically pleasing commercial development in the City of Elm Springs, and;

WHEREAS, the Elm Springs Planning Commission met in its regular meeting on Monday, September 11, 2006, and, after a hearing on the subject on these commercial design standards, voted to refer these standards to the Elm Springs City Council for adoption, and;

WHEREAS, the general purpose and intent of these design standards is to foster the use and development of land in an orderly manner by public and private entities in the City of Elm Springs, Arkansas with reasonable consideration given to the appearance of the community as a result of commercial and institutional development, and;

WHEREAS, it is further recognized that the appearance of the property not only has economic impacts but also affects the general welfare, health and safety of the citizens of Elm Springs. The intent of this Ordinance is to promote, encourage and require design elements for new and substantially remodeled commercial and institutional properties that provide an aesthetically pleasing, clean, healthy and safe environment. Specific purposes of these standards include the following:

1. To provide for the orderly and functional arrangement of land uses and buildings.
2. To establish standards for the orderly development and redevelopment within the City of Elm Springs.
3. To conserve and protect the value of land and buildings in the City of Elm Springs.
4. To preserve, protect and encourage the development of buildings, groups of buildings and development sites of distinguished architectural character and appearance.
5. To avoid deterioration of health, sanitation, safety, and public welfare brought about by inadequate planning and by indiscriminate and unregulated construction of inferior and unsuitable structures.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

SECTION 1.

## **Vision of Quality**

Quality development is viewed as being functional and visually appealing for the area in which it is located. Quality materials that are durable, will not fade or deteriorate rapidly and which contribute to an attractive streetscape. Buildings and features with architectural detailing, entries that present pleasing public appearance, landscaping that adds color, texture and beauty to the community. Design elements that shield, shade, screen loading docks, waste receptacles, mechanical systems are included in the vision of quality.

## **Enhanced Security**

Crime Prevention Through Environmental Design (CPTED) is a concept that integrates planning principles such as easy surveillance of common areas and walkways into the design of commercial development to lessen the likelihood of crime within the development. It ties building design as a crime prevention strategy. It is intended to reduce the opportunity for criminal behavior, reduce the incidence and fear of crime, reduce calls for police service and improve the quality of life. It includes five (5) principles:

a. Territoriality- space within the commercial development and along the edges should be well-defined and delineated to create a sense of ownership, such that intruders and strangers stand out. This may be accomplished through the use of pavement treatments, landscaping, art, signage, screening, fencing and similar techniques.

b. Natural surveillance- create an environment where it is possible for people engaged in their normal behavior to observe the spaces around them. Maximize a space's visibility through thoughtful design of building orientation, window placement, entrances and exits, landscaping of trees and shrubs and other physical obstruction. Utilize nighttime illumination of parking lots, walkways, entrances, stairwells, and related areas that promote an environment in which natural surveillance is possible.

c. Access control- plan and implement access control to restrict criminal intrusion, especially in areas where criminal activity cannot be easily observed. Access control may include, but is not limited to, use of fences, walls, landscaping, and lighting to prevent or discourage access to or from dark or unmonitored areas. In addition, sidewalks, pavement, lighting and landscaping areas should be used to guide the public to and from primary development entrances and exits.

d. Activity support- create activity support by placing new or existing activities in an area so that individuals engaged in a particular activity become part of the natural surveillance of other areas.

e. Maintenance- maintain buildings, landscaping, lighting fixtures and other features to facilitate the principles of CPTED, territorial reinforcement, natural surveillance and access control.

## SECTION 2.

### **Application**

The provisions of this chapter shall apply to all commercial developments through out the City that meet one (1) or more of the following classifications:

1. All new construction requiring large scale development and/or non-large scale development plan.
2. Additions or alterations to a building or site, excluding interior-only improvements, which total fifty percent (50%) or more of the gross square footage of the existing building(s) or site.

### **Exemptions**

From and after the effective date of this ordinance, the provisions herein shall apply to all pending development plans and building permits plans upon which no final decision has been made; provided, however, that where a public hearing has been held by the planning commission, such pending development plan shall be processed in accordance with the law existing on the date of the public hearing and approval was granted.

### **Review Process**

These commercial Design Guidelines and Standards shall be applied in the normal review processes for large scale and/or non-large scale developments.

### **Variances and Modifications Allowed**

The Planning Commission may approve variances to depart from the literal requirements of this chapter, where strict enforcement of said requirements would cause undue hardship due to circumstances unique to the individual property under consideration, and the granting of such variance is demonstrated to be within the spirit and intent of the provisions of this chapter, the Planning Commission may grant requests for variances of any requirements of this chapter according to the following guidelines:

1. The planning commission may modify such requirements to the extent deemed just and proper so as to relieve such difficulty or hardship, provided that such relief may be granted without detriment to the public interest.
2. When the applicant can demonstrate and explain where by reason the strict application of such provisions would prohibit or unreasonably restrict the use of the property, and the planning commission is satisfied that the granting of a variance would alleviate a demonstrable hardship unique to the applicant's property and not caused or created by action or

inaction of the applicant, as distinguished from a special privilege or convenience sought by the applicant, such variance may be granted; provided that all variances shall be in harmony with the intended purpose of this chapter.

3. Appeal from decision. Any party aggrieved by the decision of the planning commission in granting or denying a variance may appeal the decision to the city council within thirty (30) days of the planning commission's decision by giving notice thereof to the city clerk.

## **COMMERCIAL DESIGN GUIDELINES AND STANDARDS**

### **Site Planning**

**Intent-** these guidelines and standards are intended to encourage an orderly and logical pattern of commercial development that enhances the convenience, safety and livability of Elm Springs and encourages forethought and consideration of both a development's external relationships as well as its internal organization.

### **Required Scope of Development Plans**

- a. Intent- the design issues of commercial developments are generally easier to resolve if the full extent of commercial development at a particular location is dealt with as one unified project, rather than split into a number of isolated projects. Although ownership patterns may limit the degree to which large parcels can be assembled, preliminary development plans should contain all contiguous land under the developer's control, including land that is zoned for uses other than commercial. Cooperative planning between adjacent property owners is encouraged and may, in some cases, be required.
- b. Design guidelines and Standards- preliminary development or site plans for new commercial development subject to these Commercial Design Standards shall include the full development of the site, even where final development will be phased. The preliminary development plan or site plan shall show all contiguous land under the applicant's control, including land that is zoned for uses other than commercial.

### **Site Layout**

**Intent-** site layout and building orientation often define the focus of activity that occurs at the front door or along the street. These standards are intended to use site planning and building orientation in order to:

- Create a sense of place for users and passers-by;
- Ensure that buildings relate appropriately to surrounding developments and streets and create a cohesive visual identity and attractive street scene;
- Ensure that site circulation promotes pedestrian and vehicle circulation patterns; and

Ensure that parking areas provide safe and efficient access to buildings.

### **Entrances**

**Intent-** Large retail buildings should feature multiple entrances. Multiple building entrances reduce walking distance from cars, facilitate pedestrian and bicycle access from public sidewalks and provide convenience where certain entrances offer access to individual stores, or identified departments in a store. Multiple entrances also mitigate the effect of the unbroken walls and neglected areas that often characterize building facades that face bordering land uses.

**Guideline-** All sides of a principal building that directly faces and abutting public right-of-way shall feature at least one customer entrance. Where a principal building directly faces more than two abutting public rights-of-way, this requirement shall apply only to two sides of the building, including the side of the building facing the primary street, and another side of the building facing a secondary street. When additional stores will be located in the principal building, each store shall have at least one exterior customer entrance.

### **Parking Lot Orientation**

**Intent-** Parking areas should provide safe, convenient, and efficient access for vehicles and pedestrians. They should be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surfaces. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance.

**Guideline-** No more than sixty (60) percent of the off-street parking area for the entire property shall be located between the front façade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by outlot development (such as restaurants) and additional tree plantings and/or berms.

### **Back and Sides**

**Intent-** The rear or sides of buildings often present an unattractive view of blank walls, loading areas, storage areas, HVAC units, trash receptacles and other such features. Architectural and landscaping features should mitigate these impacts.

**Guideline-** The minimum setback for any building façade shall be in accordance with the requirements of the zoning district as set forth in the district regulations applicable to the subject property. Where the façade faces adjacent residential uses or areas designated on the Land Use Plan as residential use, noise attenuation and visual screening techniques such as an earthen berms, opaque wooden, masonry or stucco walls, densely planted landscape materials and similar shall be installed, no less than six (6) feet in height containing at a minimum, a double

row of evergreen or deciduous trees planted a. All landscape requirements of shall apply, and water quality management techniques implemented as prescribed in the most recent edition of the Northwest Arkansas Regional Planning Commission's Stormwater Management Plan, which is incorporated by reference.

### **Pedestrian Flows**

**Intent-** Pedestrian accessibility opens auto-oriented developments to the neighborhood, thereby reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for public sidewalks and internal pedestrian circulation systems that can provide user-friendly pedestrian access as well as pedestrian safety, shelter and convenience within the project area.

#### **Guideline**

Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public right-of-way, excluding interstates. The Planning Commission may allow rear lot line trail system and alternative pedestrian and bicycle ways in lieu or in combination with sidewalks where topographic features, pedestrian safety issues, and urban design principles are demonstrated by the applicant to be in the public interest.

Continuous internal pedestrian walkways, no less than five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than fifty (50) percent of their length.

Sidewalks, no less than five (5) feet in width, shall be provided along the full length of the building along any façade featuring a customer entrance, and along any façade abutting public parking areas. Such sidewalk shall be located at least six (6) feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade.

### **Central Features and Community Spaces**

**Intent-** Buildings should offer attractive and inviting pedestrian scale features, spaces and amenities. Entrances and parking lots should be configured to be functional and inviting with walkway conveniently tied to logical destinations. Bus stops and drop-off/pick-up points should be considered as integral parts of the configuration. Pedestrian ways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls and other architectural elements that define circulation ways and outdoor spaces. The features and spaces should enhance the building and the center as integral parts of the community fabric.

#### **Guideline**

Each commercial establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following: patio/seating areas, pedestrian plaza with benches, transportation center, window shopping walkways, outdoor play area, kiosk area, water feature, clock tower, steeple, or other such deliberately shaped area and/or a focal feature of amenity that, in the judgment of the Planning Commission, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape. All internal walkways shall be distinguished from driving surfaces through the use of durable, low-maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.

#### **Multiple Buildings in Commercial Centers**

The general principals described in this ordinance shall extend to larger scale developments that include multiple facilities. The project applicant shall be required to submit written assurance to the Planning Commission of compliance with good and efficient urban design principals per this Ordinance from the architectural consultants and landscape architects employed by the applicant.

#### **Outdoor Storage, Trash Collection and Loading Areas**

Special consideration to effective screening of trash receptacles, outdoor storage, loading docks shall be demonstrated by the applicant as a general provision of any plan submitted.

Failure to satisfactorily address this issue to the satisfaction of the Planning Commission shall be grounds for denial of any application.

#### **Building Design & Landscaping**

Taste is an admittedly subjective area, and the intent of this ordinance is not to institute specific architectural designs, themes or fads, but rather to require all developers to thoughtfully consider the outward appearance of new improvements, and to institute "good design" principals. Applicants shall be required to obtain professional services of architects, landscape architects, urban design consultants and other design professionals with professional certifications and experience.

The applicant shall be required to submit stamped, sealed, signed plans and supporting documents from their selected design professionals that includes a statement signed by the design professional as follows:

"These plans are in compliance with the principles of energy efficiency, good urban design and state of the art landscaping and building design techniques, and are in general compliance with the provisions of the Elm Springs Commercial Design Standards Ordinance."

**Lighting**

The provisions of the building and landscape plans submitted as part of this ordinance shall include indoor, outdoor and landscape lighting techniques that avoid bright, flashing lighting directed off site or into the atmosphere. Outdoor lighting shall be directed downward and away from neighboring residential properties.

**Signage**

Signage is not specifically addressed by this ordinance.

PASSED AND APPROVED this 20 day of November, 2006

APPROVED

Jane Waters  
Mayor Jane Waters

ATTEST

Glenda Pettus  
Glenda Pettus, City Clerk/ Recorder



PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Blenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2006-11 (the "Design Standards" Ordinance") was, on the 4 day of December, 2006, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 4 day of December, 2006.

Jane Waters  
Mayor

Blenda Pettus  
City Clerk

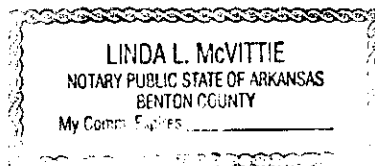
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 4 Day of December, 2006.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2007-01

**BE IT ENACTED BY THE CITY COUNCIL OF ELM SPRINGS, COUNTY OF WASHINGTON, STATE OF ARKANSAS**

**AN ORDINANCE TO AMEND ARTICLE 8 OF ORDINANCE 2002-04 OF THE CITY OF ELM SPRINGS, ARKANSAS.**

**WHEREAS**, the adoption of regulations regarding the placement, construction and maintenance of antenna arrays and communication towers requires the establishment of zoning restrictions,

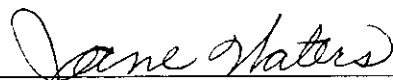
NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

Article 8 of Ordinance 2002-04 shall be amended to the following:

**The erection of all Communication Towers and Antenna Arrays shall be limited to areas zoned A-1 and C-1.**

**EMERGENCY.** Whereas the construction of towers and related facilities are of concern to the citizens of Elm Springs, and the general welfare of the citizens are affected by such, and whereas the Ordinance Establishing Regulations Regarding the Placement, Construction and Maintenance of Antenna Arrays and Communication Towers has been adopted and is in effect; therefore, an emergency is declared to exist and this ordinance shall be and is effective from the date of its passage.

PASSED AND APPROVED THIS 20 DAY OF August 2007.

  
\_\_\_\_\_  
Jane Waters, Mayor

ATTEST

  
\_\_\_\_\_

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 207-01 (the "Amend Tower + Ordinance Ordinance") was, on the 21 day of August, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 21 day of August, 2007.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

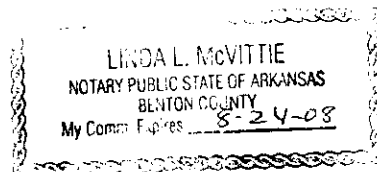
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21  
Day of August, 2007.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2007- 02

CITY OF ELM SPRINGS, BENTON & WASHINGTON COUNTIES, ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE AFOREMENTIONED LEGAL DESCRIPTION LOCATED IN OAK RIDGE ESTATES IN THE CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by the Elm Springs Planning Commission requesting that the City Council rezone the property described herein from R-1 Residential, to R-1A, Residential; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on the 10 day of September, 2007, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described as follows, which is incorporated herein by reference is hereby changed from R-1 Residential, to R-1A, Residential.

A part of lot numbered twenty-five (25), Oak Ridge Estates in the City of Elm Springs, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows: Beginning at the Southwest Corner of said lot twenty-five (25), said point being an existing iron rebar; thence N 00° 02' 03" E 115.04 feet along the west line of said lot twenty-five (25) to an existing iron rebar at the beginning of a tangent 50.00 foot radius curve concave to the southeast; thence northeasterly 78.47 feet along said boundary, the chord for which being NE feet to a set ½" iron rebar on the north line of said lot twenty-five (25), said point being at the point of tangency; thence S 89° 59' 30" E 151.21 feet along the north line of said lot twenty-five (25) to a set ½" iron rebar; thence S 00° 02' 03" W 164.92 feet to an existing iron rebar on the south line of said lot twenty-five (25); thence N 89° 56' 30" W 210.29 feet to the point of beginning, containing 0.75 acres, more or less.

A part of lot numbered twenty-five (25), Oak Ridge Estates in the City of Elm Springs, Arkansas, as per plat on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows: Commencing at the southwest corner of said lot twenty-five


(25), said point being an existing iron rebar; thence S 89° 56' 30" E 201.29 feet along the south line of said lot twenty-five (25) to an existing iron rebar for the true point of beginning; thence N 00° 02' 03" E 164.92 feet to a set ½" iron rebar on the north line of said lot twenty-five (25); thence S 89° 59' 30" E 176.07 feet along the north line of said lot twenty-five (25) to an existing iron rebar at the beginning of a tangent 25.00 foot radius curve concave to the southwest; thence southeasterly 39.17 feet along said boundary, the chord for which being SE feet to an existing iron rebar on the east line of said lot twenty-five (25), said point being at the point of tangency; thence S 00° 00' 56" E 139.99 feet to an existing iron rebar at the southeast corner of said lot twenty-five (25); thence N 89° 56' 30" W 201.02 feet to the point of beginning, containing 0.76 acres, more or less.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

Section 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

**PASSED AND APPROVED** this 17 day of September, 2007.

**APPROVED:**

  
\_\_\_\_\_  
Jane Waters, Mayor

Attest:

  
\_\_\_\_\_  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2007-09 (the "Oak Ridge Rezoning Ordinance") was, on the 18 day of September, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 18 day of September, 2007.

\_\_\_\_\_  
Mayor

Glenda Pettus  
\_\_\_\_\_  
City Clerk

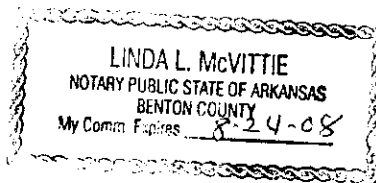
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 18 Day of Sept, 2007.

Linda L. McVittie  
\_\_\_\_\_  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2007- 05

CITY OF ELM SPRINGS, BENTON & WASHINGTON COUNTIES, ARKANSAS

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF  
THE CITY OF ELM SPRINGS TO APPLY THE ACCESSORY BUILDING  
REGULATIONS TO THE A-1 ZONE AND DECLARING AN EMERGENCY**

WHEREAS, the Elm Springs Planning Commission, after hearing testimony and studying the application of the zoning ordinance has determined that the regulations governing accessory structures and uses should be immediately changed to include the A-1 zone, as well as the other zones to which it applies.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Elm Springs, as follows:

**Section 1.** Section X, Paragraph 1 of The City of Elm Springs Zoning Ordinance, "The Zoning Ordinance" as it has been amended, shall be amended to include A-1 to the list of zones in which the Accessory Structures and Uses section and regulations apply.

**Section 2.** This Ordinance amends only that section specifically set forth herein and does not affect any other section or regulation of the The Zoning Ordinance, unless such other section specifically conflicts with this amendment, in which case this amendment shall control.

**Section 3.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

**Section 4. EMERGENCY CLAUSE.** It is hereby declared it is vital to protect and evenly regulated land within the City of Elm Springs, therefore an emergency is declared and this Ordinance shall go into effect immediately.

**PASSED AND APPROVED** this 15 day of October, 2007.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

Attest: Glenda Pettus  
Glenda Pettus, City Clerk

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pittus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2007-05 (the "Amend Zoning Ord. Ordinance") was, on the 17 day of October, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 17 day of October, 2007.

Jane Waters  
Mayor

Glenda Pittus  
City Clerk

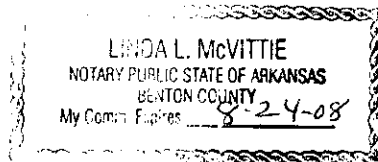
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 17th Day of October, 2007.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08





ORDINANCE NO. 2007-06

**CITY OF ELM SPRINGS, ARKANSAS**

**AN ORDINANCE TO AMEND SECTION X, PARAGRAPH 1  
OF ORDINANCE 97-001, THE ZONING ORDINANCE  
AND DECLARING AN EMERGENCY**

WHEREAS, the City Council of Elm Springs, Arkansas deems it necessary to amend the Zoning Ordinance per the recommendation of the Elm Springs Planning Commission; and,

WHEREAS, the Elm Springs Planning Commission has determined that the Zoning Ordinance should be amended to clarify the regulations which apply to out-buildings.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

Section X, Paragraph 1 of Ordinance 97-001, the Zoning Ordinance of the City of Elm Springs, Arkansas, shall be amended to read as follows:

**SECTION X -SPECIAL PROVISIONS**

1. Accessory Structures and Uses

A. An accessory building may be constructed or placed on a lot containing a residential structure in Zones R-1, R-1A, R-2, and R-0, Subject to the following terms and conditions:

1. All detached buildings and structures shall comply with the governing building setbacks and be located to the rear of the extended front of the residence, except as approved by the Planning Commission.
2. No detached building shall exceed the lesser of the existing building peak height or the maximum height allowed in the Zoning Ordinance for the zone it occupies unless approved by the Planning Commission.
3. Minimum separation from the existing building shall be 15 feet, measured from the outer edge of any eaves, porch covers or overhangs on both buildings. Ground level patios and slabs are specifically exempted from this requirement, except that the 15 foot minimum separation shall apply.

4. All accessory buildings shall be reviewed and approved by the Enforcement Officer. All accessory buildings requiring inspection by Ordinance shall be subject to the existing building permit regulations and charges. Any building exceeding 600 square feet in floor area shall be subject to review by the Planning Commission. The Planning Commission shall review the location, size, structural and exterior material, appearance as well as other features of the proposed building, and shall determine if the proposed building is appropriate and compatible considering, but not limited to the following factors: the visibility of the proposed structure; the compatibility of the proposed structure with surrounding uses and structures, and the uses and structures in the community; the size of the proposed structure relative to the lot and open space upon which it would be located, and the compatibility of proposed use in the neighborhood in which the structure is proposed.
5. Prefabricated portable outbuildings shall be allowed if approved by the Enforcement Officer as structurally sound and compatible with the applicable zoning regulations, provided they are anchored to permanent footings or slabs with no wooden part of the structure resting on soil.
6. All accessory buildings shall be made and maintained structurally sound and weather proof, made of suitable permanent materials compatible or harmonious with existing buildings and zoning regulations, and presenting an appearance esthetically consistent with its surroundings. All accessory buildings shall be subject to the same requirements for maintenance and safety as the primary structure on the property.
7. The accessory building may not be used as a residence, bedroom or living quarters except as specifically approved by the Planning Commission and in cases where all codes and regulations pertaining to residential structures shall apply to the accessory building and it will not adversely affect surrounding property.
8. All accessory buildings of any nature, including gazebos, pool dressing rooms and the like shall be governed by this Ordinance.
9. Open sheds and lean-tos shall be permitted, provided the open side is not visible from the street. The open side of Carports may be visible from the street.
10. Any review required by the Planning Commission for the approval of an accessory building shall require proof of notification of adjoining property owners at the time of the review. It is the responsibility of the applicant to provide proof of notification. Proof of notification of each adjoining property owner must be provided to the Enforcement Official at least seven (7) days prior to Planning Commission Meeting at which the structure would be approved.

B. An accessory building may, in addition to the above uses, provide shelter for a horse on a residential lot with a minimum area of 2 acres provided:

1. The building is at least 100 feet from all adjacent property lines.
2. No more than two horses are kept and sheltered on the property.
3. Stall area does not exceed 300 square feet.

**EMERGENCY CLAUSE.** Because the existing regulation governing Accessory Structures does not provide for review and inspection and confusion regarding the existing Ordinances exists, and because of the rapid growth and extremely active residential housing market; and because the health and welfare of residents are affected by the uncontrolled construction of buildings on City lots, it is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of health and safety of the citizens of the City of Elm Springs, Arkansas shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 17 day of December, 2007.

APPROVED

  
\_\_\_\_\_  
Mayor Jane Waters

ATTEST

  
\_\_\_\_\_  
Glenda Pettus, City Clerk/ Recorder

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Blenda Pittus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2007-06 (the "Amend Zoning Ord. Sec. X Par. 1 Ordinance") was, on the 21 day of December, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 21 day of December, 2007.

Jane Waters  
Mayor

Blenda Pittus  
City Clerk

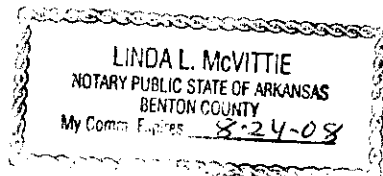
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21 Day of December, 2007.

Linda L. McVittie  
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2007-07

CITY OF ELM SPRINGS, ARKANSAS

**AN ORDINANCE TO AMEND SECTION XII, PARAGRAPH 3  
OF ORDINANCE 97-001, THE ZONING ORDINANCE  
AND DECLARING AN EMERGENCY**

WHEREAS, the Elm Springs Planning Commission has determined after study and public input that there is an acute need to make immediate changes to the Elm Springs Zoning Ordinance to encourage close observation of its terms, and has recommend alteration of the zoning ordinance to enhance the fines for its violation; and,

WHEREAS, the City Council of Elm Springs, Arkansas deems it necessary to amend the Zoning Ordinance to meet these purposes.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

Section 1. Section XII, Paragraph 3 of Ordinance 97-001, the Zoning Ordinance of the City of Elm Springs, Arkansas, shall be amended to read as follows:

**SECTION XII - ADMINISTRATION AND ENFORCEMENT**

3. Penalty for Violation.

Any individual, group or corporation who violates any provision of this Ordinance or fails to comply thereafter with any of the requirements thereof, or who builds or alters any building in violation of any detailed statement of submitted and approved plans hereunder, shall be guilty of a misdemeanor and shall be liable to a fine of not more than Two Hundred Fifty Dollars and No/100 **(\$250.00)**. Each day a violation is allowed to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this Ordinance shall be placed, or shall exist, and any architect, builder, contractor, agent, engineer, person, or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be fined as provided above.

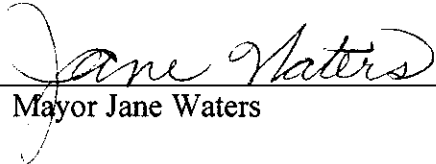
Section 2. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any

reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

**EMERGENCY CLAUSE.** Because of the growth and activity which has been experienced, and will continue to pressure Elm Springs, and because of the immediate need to ensure that the land use ordinances and regulations are observed to the fullest extent, an emergency is declared and to protect the health and safety of the citizens of the City of Elm Springs, Arkansas, this ordinance shall become effective immediately upon its passage, approval and posting in five public places.

PASSED AND APPROVED this 17 day of December, 2007

APPROVED

  
\_\_\_\_\_  
Mayor Jane Waters

ATTEST

  
\_\_\_\_\_  
Glenda Pettus, City Clerk/ Recorder

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pittus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2007-07 (the "Apnead zoning Ord. Sec XII Par. 3 Ordinance") was, on the 21 day of December, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 21 day of December, 2007.

Jane Waters  
Mayor

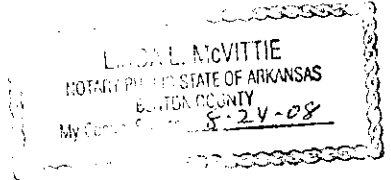
Glenda Pittus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21 Day of December, 2007.

Linda L. McVittie  
Notary Public

My Commission Expires:  
8-24-08



ORDINANCE NO. 2008- 04

CITY OF ELM SPRINGS, BENTON & WASHINGTON COUNTIES, ARKANSAS

**AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE LEGAL DESCRIPTION SETFORTH HEREIN LOCATED IN THE MILLS QUARTER SUBDIVISION IN THE CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS**

**WHEREAS**, an Application for Rezoning was submitted with owner, Dusty Graham, and filed with the City of Elm Springs by the Elm Springs Planning Commission requesting that the City Council rezone the property described herein from R-1 Residential, to R-1A, Residential, which will be located in the "Mills Quarter Subdivision"; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on the 11th day of February, 2008, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described as follows, which is incorporated herein by reference is hereby changed from R-1 Residential, to R-1A, Residential.

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 18 NORTH, RANGE 30 WEST WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: FROM THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29, RUN N00°09'11"W 402.25' ALONG THE SUBDIVISIONAL LINE TO A SET IRON PIN; THENCE N89°51'41"W 415.93' TO A SET IRON PIN, THE POINT OF BEGINNING; THENCE N89°51'41"W 903.88' TO A SET IRON PIN; THENCE N00°08'12"W 353.42' TO A FOUND IRON PIN; THENCE EAST 903.90' TO A SET IRON PIN; THENCE S00°08'12"E 355.61' TO THE POINT OF BEGINNING, AND CONTAINING 7.36 ACRES MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.



Section 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

**PASSED AND APPROVED** this 17 day of March, 2008.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2008-04 (the "Reynolds Mills Quarter Ordinance") was, on the 31 day of March, 2008, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 31 day of March, 2008.

Jane Waters  
Mayor

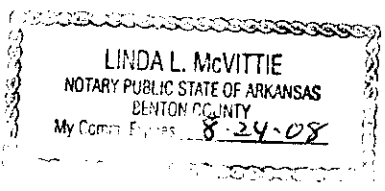
Glenda Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 31 Day of March, 2008.

Linda L. McVittie  
Notary Public

My Commission Expires:  
8-24-08



**ORDINANCE NO. 2008-13**

**CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES,  
ARKANSAS**

**AN ORDINANCE TO AMEND SECTION 2 (D) "LOT SPLIT PROCEDURE" OF  
ORDINANCE 97-009 THE SUBDIVISION ORDINANCE  
FOR THE CITY OF ELM SPRINGS, ARKANSAS**

**WHEREAS**, the City Council of Elm Springs, Arkansas deems it necessary to amend the Subdivision Ordinance to change various requirements therein; and

**WHEREAS**, the Elm Springs Planning Commission has determined to establish updated guidelines for the Ordinance;

**NOW THEREFORE BE IT ORDAINED, BY THE CITY COUNCIL OF THE  
CITY OF ELM SPRINGS, ARKANSAS, IN REGULAR SESSION ASSEMBLED  
AS FOLLOWS:**

**Section 1.** That Section 2 (D) "Lot Split Procedure" of Ordinance 97-009, The Subdivision Ordinance of the City of Elm Springs, shall be amended to read as follows:

1. LOT SPLITS - Lot splits are required to divide an existing parcel of land into two or more parcels.
  - a. When a property is to be split, the request shall be submitted to the City of Elm Springs and consist of the following:
    - i. Lot Split Application form
    - ii. Payment of the lot split fee
    - iii. A survey certified by a registered professional surveyor of the property proposed for division.
  - b. The request for lot split approval shall be submitted at least 15 days prior to the meeting of the Planning Commission at which consideration is requested.
  - c. No more than two (2) splits shall be allowed on a parcel in a five (5) year period. If more than two (2) splits are requested in the five (5) year time period, the request shall be processed as a preliminary plat of a subdivision.

- d. Lot configuration, size and location shall be evaluated by the planning commission to ensure adequate ingress and egress for emergency vehicles.
  - e. All lots associated with the lot split shall conform to existing zoning requirements for lot size, lot width, frontage, setbacks and buildable area.
  - f. After approval, the applicant shall submit to the City the necessary copies of the signed and filed lot split plat.
2. PROPERTY LINE ADJUSTMENTS – A property line adjustment is the transfer or adjustment of a property line between adjoining property owners which does not create a new, separate lot.
- a. When a property is to be adjusted, the request shall be submitted to the City of Elm Springs and consist of the following:
    - i. Property Line Adjustment Application form
    - ii. Payment of the property line adjustment fee
    - iii. A survey certified by a registered professional surveyor of the property proposed for division.
  - b. The Mayor or the Mayor's duly authorized representative may administratively approve property line adjustments if the lots conform to existing zoning requirements for lot size, lot width, frontage, setbacks and buildable area.

**Section 2.** All previous ordinances in conflict herewith are hereby repealed only to the extent of the conflict and this amendment does not alter any subdivision regulations but those specifically addressed herein, and those necessary to carry out this ordinance, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

**PASSED AND APPROVED** this 15 day of Sept, 2008

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

**ATTEST:**

Glenda Pettus  
Glenda Pettus, City Clerk/Recorder

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Petrus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 208-13 (the "Amend 2(D) of Ord. 97-09 Ordinance") was, on the 24 day of September, 2008, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 24 day of September, 2008.

Jane Waters  
Mayor

Glenda Petrus  
City Clerk

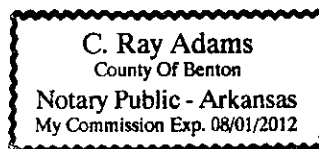
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 24 Day of Sept, 2008.

C. Ray Adams  
Notary Public

My Commission Expires:

08/01/2012



ORDINANCE NO. 2010- 01

CITY OF ELM SPRINGS, BENTON & WASHINGTON COUNTIES, ARKANSAS

AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE AFOREMENTIONED LEGAL DESCRIPTION LOCATED AT 200 SCOTT LANE, IN THE CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by the Elm Springs Planning Commission requesting that the City Council rezone the property described herein from changed from A-1 Agricultural, to C Commercial; and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on the 14 day of December, 2009, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described as follows, which is incorporated herein by reference is hereby changed from A-1 Agricultural, to C Commercial.

A 2.74 acre parcel located at Scott Lane & Highway 112 Pt NE 1/4 of SW 1/4 Section 25, Township 18 North, Range 31 West of the Fifth Principal Meridian, Washington County, Arkansas, and also part of Lot 10, Block 1, of the Original Town of Elm Springs, Arkansas.

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

Section 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

**PASSED AND APPROVED** this 18 day of January, 2010.

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

**ATTEST:**

Glenda Pettus  
Glenda Pettus, City Clerk/Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

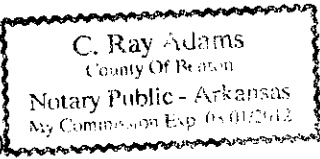
COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2010-01 (the "Rezone Scott Lane Ordinance") was, on the 27 day of January, 2010, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 27 day of January, 2010.

Jane Waters  
Mayor

Glenda Pettus  
City Clerk

(SEAL) 

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 27 Day of January, 2010.

C. Ray Adams  
Notary Public

My Commission Expires:  
08/01/2012



**ORDINANCE NO. 2011-01**

**CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ELM SPRINGS TO EXCLUDE THE A-1 ZONE FROM THE ACCESSORY BUILDING REGULATIONS AND DECLARING AN EMERGENCY**

WHEREAS, the Elm Springs Planning Commission, after public hearing, after hearing testimony and studying the application of the zoning ordinance has determined that the regulations governing accessory structures and uses should be immediately changed to exclude the A-1 zone in order to preserve the orderly growth and desirable living character of the City of Elm Springs, and;

WHEREAS, the City Council for the City of Elm Springs has heard the recommendation of the Planning Commission and does agree that this change should be immediately implemented

**NOW THEREFORE BE IT ORDAINED**, BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, AS FOLLOWS:

**Section 1.** Section X, Paragraph 1 of the City of Elm Springs Zoning Ordinance, as it has been amended, shall be amended to exclude A-1 from the list of zones in which the Accessory Structures and Uses section and regulations apply.

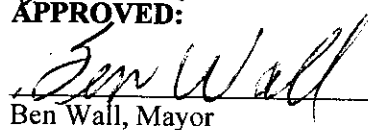
**Section 2.** This Ordinance amends only that section specifically set forth herein and does not affect any other section or regulation of the Zoning Ordinance, unless such other section specifically conflicts with this amendment, in which case this amendment shall control.

**Section 3.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

**Section 4. EMERGENCY CLAUSE.** Because of the immediate pressures and issues before the planning commission and facing the City of Elm Springs and the vital need to preserve the livability and rural character of this wonderful city, it is hereby declared it is vital to protect and evenly regulate land within the City of Elm Springs, therefore an emergency is declared and this Ordinance shall go into effect immediately upon its passage.

**PASSED AND APPROVED** this 17 day of January, 2011.

**APPROVED:**

  
Ben Wall, Mayor

Attest:

  
Glenda Pettus, City Clerk

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Glenda Petrus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2011-01 (the "Amend Zoning - Exclude A-1 Ordinance") was, on the 24 day of January, 2011, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 24 day of January, 2011.

Ben Wall  
Mayor

Glenda Petrus  
City Clerk

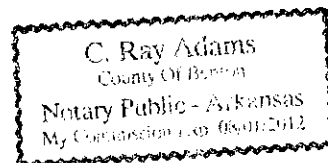
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 24 Day of January, 2011.

C. Ray Adams  
Notary Public

My Commission Expires:

08/01/2012



Ordinance No. 2013-01

City of Elm Springs, Arkansas

2011 Arkansas Energy Code

**AN ORDINANCE PROVIDING MINIMUM ENERGY STANDARDS FOR THE DESIGN OF NEW BUILDINGS AND STRUCTURES OR PORTIONS AND ADDITIONS TO EXISTING BUILDING THAT PROVIDE FACILITIES OR SHELTER FOR PUBLIC ASSEMBLY, EDUCATION, BUSINESS, MERCANTILE, INSTITUTIONAL, STORAGE, AND RESIDENTIAL OCCUPANCIES, AS WELL AS THOSE PORTIONS OF FACTORY AND INDUSTRIAL OCCUPANCIES DESIGNED PRIMARILY FOR HUMAN OCCUPANCY BY REGULATING THEIR EXTERIOR ENVELOPES AND THIS SELECTION OF THEIR HVAC, SERVICE WATER HEATING, ELECTRICAL DISTRIBUTION AND ILLUMINATING SYSTEMS AND EQUIPMENT FOR EFFECTIVE USE OF ENERGY.**

Be it enacted by the City Council of Elm Springs, Arkansas,

**Section 1. ADOPTION OF ENERGY CODE.**

There is hereby adopted by the City Council of Elm Springs, Arkansas, for the purpose of establishing rules and regulations for energy efficient standards for new building construction, this code known as the 2011 Arkansas Energy Code, being particularly the 2011 Arkansas Energy Code edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three (3) copies of this ordinance, as well as, three (3) copies of the Arkansas Energy Code, have been and now are filed in the office of the Clerk or Recorder of the City of Elm Springs, Arkansas, and the same ordinance is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the City of Elm Springs, Arkansas.

**Section 2. INCONSISTENT ORDINANCES REPEALED.**

Ordinances or parts thereof in force at the time that this ordinance shall take effect, if inconsistent herewith, are hereby repealed.

**Section 3. EMERGENCY CLAUSE.**

Whereas it is of the utmost urgency that the City of Elm Springs, Arkansas, have an up-to-date Energy Code to protect the citizens of our city, thereof, an Emergency is hereby declared to exist and this ordinance being necessary for the immediate protection of the public shall take effect immediately on its passage and approval.

PASSED AND APPROVED this 21 day of January, 2013.

APPROVED:

Ben Wall  
Ben Wall, Mayor

ATTEST:

Glenda Pettus  
Glenda Pettus, City Clerk

(SEAL)

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

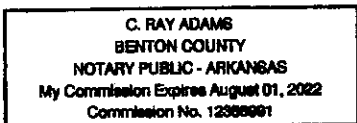
COUNTY OF Washington

We, Ben Wall and Glenka Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2013-010 (the "Arkansas Energy Code" Ordinance") was, on the 29 day of January, 2013, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 29 day of January, 2013.

\_\_\_\_\_  
Mayor

Glenka Pettus  
\_\_\_\_\_  
City Clerk



(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 29 Day of January, 2013

C. Ray Adams  
\_\_\_\_\_  
Notary Public

My Commission Expires:

Aug 01 2022

ORDINANCE NO. 2013-03

**CITY OF ELM SPRINGS, ARKANSAS  
AN ORDINANCE ADOPTING A  
REVISED ZONING ORDINANCE BY REFERENCE**

**WHEREAS**, the Elm Springs Planning Commission has recommended certain changes, additions and corrections to the text of the zoning ordinance and did hold a duly advertised public hearing on the revised zoning ordinance, and in fact held several advertised public hearings on the ordinance in order insure that all citizens were afforded the opportunity to comment and contribute to the revisions to the Elm Springs Zoning Ordinance; and,

**WHEREAS**, the City Council has reviewed Chapters 1 through 5 of the proposed ordinance and accepts the recommendations of the Planning Commission and thanks them for their diligent efforts, and;

**WHEREAS**, three copies of these regulations have been on file at the Elm Springs City Hall for at least fifteen (15) days prior to the adoption of them and the public has been so notified, in accordance with state law, and;

**WHEREAS**, the text of said Ordinance is incorporated hereto by reference and shall be known as " Chapters 1 through 5 of the City of Elm Springs Zoning Ordinance" or the "Chapters 1 through 5 of City of Elm Springs Zoning Regulations."

**NOW THEREFORE, BE IT ORDAINED**

**Section 1.** that the City Council of the City of Elm Springs, Arkansas has accepted the recommendations of the Planning Commission and does hereby adopt Chapters one (1) through five (5) of the revised Zoning Ordinance by reference in its entirety.

**Section 2. Repeal of Conflicting Ordinances and Severability.** Any matters in the foregoing Zoning Ordinance which are contrary to the existing Ordinances of the City of Elm Springs shall prevail, and to the extent there are any existing Ordinances of the City in conflict herewith, they are hereby repealed in that respect only. Further, if any portion of these regulations are deemed unconstitutional or for any reason invalid, that invalid portion shall be severed from these regulations and the remaining portions of these regulations shall remain in full force and effect.

**Section 3. Designated Official.** Within said regulations, when reference is made to the duties of a certain official named therein, that designated official of the City of Elm Springs who has duties corresponding to those of the named official in said Zoning Ordinance shall be deemed to be the responsible official insofar as enforcing the provisions of said Zoning Ordinance are concerned.

PASSED AND APPROVED this 18 day of February, 2013

APPROVED:

Ben Wall  
Ben Wall, Mayor

ATTEST: Glenda Pettus  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2013-03 (the "Ch. 1-5 Revised Zoning Ordinance") was, on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 26 day of February, 2013

Ben Wall  
Mayor

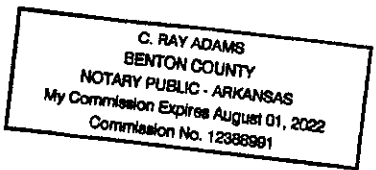
Glenda Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 26 Day of February, 2013

C. Ray Adams  
Notary Public

My Commission Expires:  
Aug. 01, 2022





ORDINANCE NO. 2013- 07

CITY OF ELM SPRINGS, ARKANSAS  
AN ORDINANCE ADOPTING A  
REVISED ZONING ORDINANCE BY REFERENCE

WHEREAS, the Elm Springs Planning Commission has recommended certain changes, additions and corrections to the text of the zoning ordinance and did hold a duly advertised public hearing on the revised zoning ordinance, and in fact held several advertised public hearings on the ordinance in order insure that all citizens were afforded the opportunity to comment and contribute to the revisions to the Elm Springs Zoning Ordinance; and,

WHEREAS, the City Council has reviewed Chapters 1 through 16 of the proposed ordinance and accepts the recommendations of the Planning Commission and thanks them for their diligent efforts, and;

WHEREAS, three copies of these regulations have been on file at the Elm Springs City Hall for at least fifteen (15) days prior to the adoption of them and the public has been so notified, in accordance with state law, and;

WHEREAS, the text of said Ordinance is incorporated hereto by reference and shall be known as "Chapters 1 through 16 of the City of Elm Springs Zoning Ordinance" or the "Chapters 1 through 16 of City of Elm Springs Zoning Regulations."

**NOW THEREFORE, BE IT ORDAINED**

**Section 1.** that the City Council of the City of Elm Springs, Arkansas has accepted the recommendations of the Planning Commission and does hereby adopt Chapters one (1) through sixteen (16) of the revised Zoning Ordinance by reference in its entirety.

**Section 2. Repeal of Conflicting Ordinances and Severability.** Any matters in the foregoing Zoning Ordinance which are contrary to the existing Ordinances of the City of Elm Springs shall prevail, and to the extent there are any existing Ordinances of the City in conflict herewith, they are hereby repealed in that respect only. Further, if any portion of these regulations are deemed unconstitutional or for any reason invalid, that invalid portion shall be severed from these regulations and the remaining portions of these regulations shall remain in full force and effect.

**Section 3. Designated Official.** Within said regulations, when reference is made to the duties of a certain official named therein, that designated official of the City of Elm Springs who has duties corresponding to those of the named official in said Zoning Ordinance shall be deemed to be the responsible official insofar as enforcing the provisions of said Zoning Ordinance are concerned.

PASSED AND APPROVED this 17 day of June, 2013

APPROVED:

Ben Wall  
Ben Wall, Mayor

ATTEST:

Glenda Pettus  
Glenda Pettus, City Clerk

ORDINANCE NO. 2013-08

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ELM SPRINGS TO ALTER THE ACCESSORY STRUCTURE REGULATIONS

WHEREAS, the Elm Springs Planning Commission, after public hearing, after hearing testimony and studying the application of the zoning ordinance has determined that the regulations governing accessory structures and uses should altered in order to preserve the orderly growth and desirable living character of the City of Elm Springs, and;

WHEREAS, the City Council for the City of Elm Springs has heard the recommendation of the Planning Commission and does agree that this change should be implemented.

**NOW THEREFORE BE IT ORDAINED:**

**Section 1.** Chapter 5.02 of the City of Elm Springs Development Code, subtitled "Accessory Structures and Uses," is amended, at sections (A)(3) and (A)(3)(i) to read as follows:

(3) *Size of accessory structure.* An accessory structure shall be 50% or less of the size of the principal structure. Any accessory structure requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with chapter 4, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties.

(i) *Exceptions.* If the principal structure is 1200 sf in size or less, then the maximum size of an accessory structure is 600 sf unless a conditional use permit is obtained from the Planning Commission.

**Section 2.** This Ordinance amends only that section specifically set forth herein and does not affect any other section or regulation of the City of Elm Springs Development Code, unless such other section specifically conflicts with this amendment, in which case this amendment shall control.

**Section 3.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

PASSED AND APPROVED this 16 day of September, 2013.

APPROVED:

Ben Wall  
Ben Wall, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Stenka Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2013-03 (the "Amend Zoning Ordinance") was, on the 25 day of September, 2013, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 25 day of September, 2013.

Ben Wall  
Mayor

Stenka Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 25<sup>th</sup> Day of September, 2013.

Miranda Taylor  
Notary Public

My Commission Expires:  
May 6, 2023



ORDINANCE NO. 2013-09

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ELM SPRINGS TO ALTER PORTIONS OF CHAPTER 7 AND THE FEE SCHEDULE CONTAINED IN CHAPTER 16

WHEREAS, the Elm Springs Planning Commission, after public hearing, after hearing testimony and studying the application of the zoning ordinance has determined that minor portions of the regulations contained in Chapters 7 and 16 should be altered in order to preserve the orderly growth and desirable living character of the City of Elm Springs, and;

WHEREAS, the City Council for the City of Elm Springs has heard the recommendation of the Planning Commission and does agree that this change should be implemented.

**NOW THEREFORE BE IT ORDAINED:**

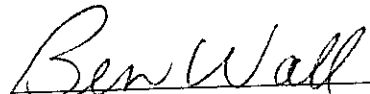
**Section 1.** Chapters 7 and 16 of the Elm Springs Development Code are amended as reflected in the attached revised copies of Chapters 7 and 16.

**Section 2.** This Ordinance amends only that section specifically set forth herein and does not affect any other section or regulation of the City of Elm Springs Development Code, unless such other section specifically conflicts with this amendment, in which case this amendment shall control.


**Section 3.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

PASSED AND APPROVED this 21 day of October, 2013.

APPROVED:

  
Ben Wall, Mayor

Attest:

  
Glenda Pettus, City Clerk

## CHAPTER 7: STREETS AND SIDEWALKS

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CITY OF ELM SPRINGS ZONING ORDINANCE



## CHAPTER 7: STREETS AND SIDEWALKS

### 7.01 Miscellaneous Provisions

- (A) *Rules and regulations governing street improvements.* Planning Commission is hereby authorized to prepare such rules and regulations in connection with the standardization of the design, construction, and maintenance of street and alley paving, including driveways, sidewalks, storm sewers, culverts and bridges, material, and construction methods, including approval of all such work, and for other matters and things in connection with the construction and maintenance of such work, which lie within the jurisdiction of the city, as to him/her shall deem proper, necessary, or expedient. Upon the preparation of such rules and regulations, they shall be submitted to the City Council and upon approval by the City Council, either by motion or resolution, such rules and regulations shall govern the design, construction and maintenance of street improvements as stated in this section. Such rules and regulations, when approved by the City Council, shall have the same force and effect as law.

- (B) *Retaining walls near sidewalk or right-of-way.*

It shall be unlawful for any person to construct any retaining wall within two (2) feet of any sidewalk in the city or, if there is no sidewalk, within two (2) feet of the platted line of the city right-of-way, without first obtaining approval from the Planning Commission.

- (C) *Gated streets not allowed in residential subdivisions.*

No residential subdivision or apartment complex shall be constructed with a gate across a street without prior express approval by resolution of the City Council that finds that security considerations favoring a gate outweigh aesthetic considerations and the city's policies in favor of connectivity, openness and neighborliness.

### 7.02 Intersections

- (A) Streets shall be planned and designed to provide a safe system for present and prospective traffic.
- (B) Proposed streets shall be planned in such a manner as to provide safe access to proposed lots.

### 7.03 Procedure For Closing Utility Easements And Street Rights-Of-Way

The procedure for closing of streets and alleys shall hereafter be as follows:

- (A) *Information to City Clerk.* Petitioners shall present to the City Clerk in duplicate the following information before processing shall begin:

- (1) *Petition/plat.* Petition to close and vacate street or alley, including a certified or copy of the plat on record in the Circuit Clerk's office.
- (2) *Abstractor's certificate.* Abstractor's certificate of ownership.
- (3) *Utilities comments.* Comments from owners or agents, of all utility companies concerning streets or alleys to be closed and its relationship to existing or planned utilities, with recommendations, as to what action should be taken.

- (B) *Information to Planning Commission.* One copy of the above shall be presented by the City Clerk for review and recommendation of the Planning Commission.

- (C) *Recommendation to City Council.* The recommendation of the Planning Commission shall be forwarded to the City Council.

- (D) *Record with Circuit Clerk.* If an ordinance is adopted closing or vacating the street or alley, it shall be published and reported in the Circuit Clerk's office.

### 7.04 Occupation Of Streets And Highways By Public Utilities

Any public utility, as defined by state law, which occupies the streets, highways or other public places of the city under a franchise granted by the city or the state shall occupy said streets, highways or other public places subject to the following terms and conditions:

- (A) *Written approval.* A public utility shall not erect or place any facility more than seven (7) feet inside the right-of-way line for any street without the prior written approval of the Mayor, who shall grant such approval only if he determines that the facility will not impair or obstruct present or future vehicular and pedestrian traffic.

- (B) *Relocation.* Whenever public utility facilities which are located within a public right-of-way must be relocated in order not to impair or obstruct vehicular or pedestrian traffic on any new or existing street, highway, road, or sidewalk, the public utility shall be required to relocate its facilities within a reasonable time from receipt of written notice from the Mayor, and shall bear its own relocation costs; provided, where any project is funded with federal or state

## CITY OF ELM SPRINGS ZONING ORDINANCE

funds and said funds are received by the city for the purpose of reimbursing utility relocation expenses, the utility shall receive such reimbursement. This division shall not be construed as requiring a utility to relocate its facilities within or from a private easement without payment of just compensation.

- (C) *Policies.* The following policies approved by Arkansas State Highway Commission, Minute Order 70-300 updated to the latest revision, shall apply to the accommodation and adjustment of utilities on street and alley right-of-ways within the city:

(1) *General criteria:*

- (a) *Underground utility construction.* Underground utility construction shall conform to all applicable codes, standards, and specifications.
- (b) *Depth.* The depth of bury for new or replacement utility installations shall be established by the utility on the basis of engineering and safety factors for the area; and in keeping with the degree of hazard or protection required for the line involved; provided, however, that the normal minimum depth of bury on all cross lines shall be 2 ½ feet below the low points of roadway cross section, or 3 ½ feet below the bottom of surfacing (top of subgrade), whichever gives the greater depth; and the normal minimum depth of bury on all parallel (longitudinal) lines shall be two (2) feet.
- (c) *Aboveground appurtenances.* Pedestals or other aboveground utility appurtenances shall be located at or near the right-of-way line well outside of the street maintenance operation area.
- (d) *City approval.* All proposed locations and utility designs shall be reviewed and subject to approval by the City to ensure that the proposed construction will not cause avoidable interference with existing or planned street facilities, or with street operation or maintenance.
- (e) *Expansion of underground utilities.* On both cased and uncased installations, particularly on crossings installed in advance of new street construction, consideration should be given by the utility for placing a spare conduit or duct to accommodate known or planned expansion of underground lines.

- (f) *Underground installations.* The controls for pipelines as apply to encasements, conduits, appurtenances, installations, trenched and untrenched construction, and adjustments shall be followed, as applicable, on underground installation of electric power and communication lines.

(2) *Location and alignment:*

- (a) *Crossings.* Crossings should be located as near normal to the street alignment as practical.
- (b) *Underground crossings.* Conditions which are generally unsuitable or undesirable for underground crossings should be avoided. These include locations such as deep cuts; near footings of bridges retaining walls; across intersections at grade or ramp terminals; at cross drains where flow of water, drift, or stream bedload may be obstructed; within basins of an underpass drained by a pump; land in wet or rocky terrain where it would be difficult to attain minimum bury.

(3) *Cased and uncased construction:*

- (a) *Without protective conduit.* Where acceptable to both the utility and the City on minor streets, underground crossings may be installed without protective conduit or duct. Normally, such installations should be limited to open-trenched construction or to small bores for pipe, wire or cable facilities where soil conditions permit installation by boring a hole about the same diameter as the pipe or cable and pushing the pipe or pulling the cable through.
- (b) *Encased in protective conduit.* Where crossings of underground lines are encased in protective conduit or duct, the encasement shall extend a suitable distance (minimum where practical equal to the depth of bury) beyond the slope or ditch lines. On curbed sections, it should extend outside the outer curbs or sidewalk. Where appropriate, the encasement shall extend to the access control lines, to the outside of frontage roads, or to an indicated line that allows for future widening of the street.
- (c) *Other.* Consideration should be given to encasement or other suitable protection

## CITY OF ELM SPRINGS ZONING ORDINANCE

for any pipe, wire or cable facilities with less than minimum bury, near the footings of bridges or other street structures, or near other locations where there may be hazard.

- (4) *Street design.* When plans for street improvement and development are formulated, utility line locations should be recognized and the street designed so as to minimize conflict with existing utilities.

### 7.05 Maintenance And Construction Policies

The city's policies concerning and regarding the maintenance and construction of streets, curbs, gutters, and sidewalks shall be as follows:

- (A) *Maintenance.* The city shall maintain roadways in the city which have been accepted by the city as city streets, or which have come under the jurisdiction of the city by or through annexation.
- (B) *Priorities.* The following factors shall be considered in establishing priorities for roadway resurfacing and rebuilding:
- (1) *Function.* The function of the street, that is, the streets which carry or are expected to carry heavy amounts of traffic shall have priority over lesser streets.
- (2) *Condition.* The condition of the pavement, in general, roadways which are more deteriorated shall have priority over those streets of lesser deterioration. However those streets of lesser deterioration may have priority when it is determined that the benefits of resurfacing the roadways of lesser deterioration may be greater.
- (C) *Sidewalks.*
- (1) *Repair/replacement.* Existing city sidewalks shall be repaired and replaced by the city, as needed.
- (2) *Priorities.* In establishing priorities for sidewalk repair or replacement, the factors to be considered shall include, but not be limited to the following:
- (a) The conditions of the sidewalk;
- (b) The expected level of pedestrian traffic; and,
- (c) The use of the sidewalk by school children.

### 7.06 Order Of City Council Or Permit Required

No person shall begin to construct, reconstruct, repair, alter or grade any sidewalk, curb, curb-cut, driveway or street on the public streets, unless the same has been properly ordered by the City Council, or plans for such have been approved by the city as site improvements for a development, or a permit has been issued by the city's official charged with the administration of this chapter.

### 7.07 Application For Permit

An applicant for a permit hereunder shall file with the city official an application showing:

- (A) Name and address of the owner, or agent in charge, of the property abutting the proposed work area;
- (B) Name and address of the party doing the work;
- (C) Location of the work area;
- (D) A plan or clear description of the work to be done;
- (E) Such other information as the city official shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

### 7.8 Standards For Issuance Of Permit; Expiration And Removal

- (A) The city official shall issue a permit hereunder when he/she finds:
- (1) That the plans have been approved.
- (2) That the work shall be done according to the specifications contained herein.
- (3) That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress to and egress from the property affected and adjacent properties.
- (4) That the health, safety, and welfare of the public will not be unreasonably impaired.
- (B) Any permit issued shall expire three (3) months from the date of issue and may be renewed upon application.

### 7.09 Inspection Of Work; Replacement Of Rejected Work

- (A) The city official shall make all necessary inspections before, during and after the

## CITY OF ELM SPRINGS ZONING ORDINANCE

construction of all sidewalks, paving, curbing and guttering to insure the work is being done in accordance with the plans and specifications. In the event any or part of any work is not done in a satisfactory manner or not in conformity with the plans and specifications, the city official shall notify the contractor and owner in writing of his/her nonacceptance of the work. All such rejected work shall be removed and replaced within 30 days of this notification.

- (B) Advance notification must be given the city official for inspections under this section.

### 7.10 Property Owner To Construct Sidewalk

- (A) *Requirement.* The owner of any property abutting a public street or highway for which a sidewalk is required by the final plat of the development, shall construct a sidewalk in accordance with §7.11 of this code, along said street or highway upon the receipt of notice issued at the time a building or parking lot permit is issued.

### 7.11 Sidewalk and Driveway Specifications

- (A) *Sidewalks.*

- (1) *Grades; establishment of property lines.* All sidewalks, access ramps, and driveway approaches shall be constructed in grades as approved by the City. It shall be the responsibility of the owner to establish property lines by competent survey at his/her own expense.

- (2) *Minimum width of sidewalks.* The minimum width of sidewalks shall follow the guidelines of the Master Street Plan, of the Comprehensive Land Use Plan. In all cases, the effective width of the sidewalk shall be a minimum of 4 feet. Effective sidewalk width is the actual sidewalk width, less:

A shy distance of 2 feet where vertical barriers (walls, fences, signs, etc) greater than 3.5 feet in height are adjacent to the sidewalk and extend more than 4 feet in length parallel to the sidewalk. A shy distance of 1 foot is required for all other fixed obstacles.

- (3) *Sidewalk distances from the curb.* The sidewalk setback distance from the curb shall follow the guidelines of the Master Street Plan.

- (4) *Minimum distance between sidewalk and slopes.* There shall be a minimum of one (1) foot between the sidewalk and the beginning of a slope as shown on the typical section detail.

- (5) *Cement-concrete requirements.* All sidewalks, access ramps, and concrete driveway approaches shall be constructed of a portland cement concrete mixture that includes at least 5.5 bags of cement per cubic yard and contains 4 to 7 percent air entrainment and that will produce a concrete of a compressive strength of 3,500 pounds per square inch after 28 days set under standard laboratory methods.

- (6) *Minimum thickness of sidewalks and driveway approaches.*

- (a) *Sidewalks.* The minimum thickness of sidewalks shall be four (4) inches with six-inch by six-inch 10-gauge reinforcing steel mesh. Any fill materials required for residential or commercial sidewalks shall consist of approved compacted material.

- (b) *Residential driveway approaches.* The minimum thickness of residential driveway approaches shall be six (6) inches with four inches of compacted base material or six-inch by six-inch 10-gauge reinforcing steel mesh.

- (c) *Commercial driveway approaches.* The minimum thickness of commercial driveway approaches shall be six (6) inches with six (6) inches of compacted base material or six-inch by six-inch 10-gauge reinforcing steel mesh.

- (7) *ADA guidelines.* Sidewalks shall conform to ADA guidelines.

- (8) *Continuous through driveway approach.* Sidewalks shall be continuous through driveways with an expansion joint at the edge of the sidewalk opposite the street.

- (9) *Edge adjacent to street.* The sidewalk edge adjacent to the street shall have at least one (1) inch deep grooved joint mark (cannot be a saw cut, however it can be a cold joint) to clearly define the sidewalk through the driveway and approach.

- (10) *Sidewalk elevation.* The back of sidewalk elevation shall be such that the slope from the back of sidewalk to the top of curb is 2%, unless otherwise approved by the City

## CITY OF ELM SPRINGS ZONING ORDINANCE

Engineer. This elevation shall be continuous through the driveway approach.

- (11) *Cross Slope.* Sidewalk cross slopes shall be a minimum of one (1) percent and a maximum of two (2) percent. Sidewalks that are to be constructed adjacent to the curb shall be so located at their intersection with the driveway approach the ADA requirement of the two (2) percent maximum cross slope is met.
  - (12) *Joint material.* Wood shall not be acceptable in sidewalks for expansion joints. The joint material shall be asphalt impregnated fiberboard meeting the requirements of AASHTO M213, or other joint material meeting the requirements of the latest version of the Arkansas State Highway and Transportation Department Standard Specifications.
  - (13) *Expansion joint.* Full depth expansion joints (four inches) shall be provided at intervals not greater than 50 feet, and where sidewalks abut drainage structures, retaining walls, building faces, and all other fixed objects. One-quarter depth (one inch) weakened plane joints, or saw-cut joints, shall be placed in sidewalk at regular intervals not greater than the width of the sidewalk. Maximum joint spacing shall not be greater than two times the thickness of the sidewalk. Saw joints shall be filled with self leveling sealant such as Sonneborn SL1 or equivalent.
  - (15) *Materials.* The material used for sidewalk construction shall be Portland cement concrete having a broom finish.
  - (16) *Edges.* All sidewalks shall have one-half (1/2) inch rolled edges.
  - (17) *Removal/replacement.* Removal and replacement of broken sidewalks require vertical saw-cuts on both ends of the sidewalk being replaced.
  - (18) *Curing compound.* All sidewalks and driveway approaches require the application of a concrete curing compound or the concrete is to be kept moist for seven (7) days.
- (B) *Driveway approaches.*
- (1) *Curb removal.* Curb, if existing, shall be removed for full width of the drive approach.
  - (2) *Vertical curb cut.* Vertical curb cutting along the flow-line of the gutter is allowed.
  - (3) *No vertical curb cut.* If no vertical curb cut is made, complete curb and gutter removal is required.
  - (4) *Concrete removal.* All concrete to be removed shall be saw-cut.
  - (5) *Driveway approach.* The area remaining between the sidewalk and the flow-line of the gutter, called the approach to the driveway, shall slope up to the elevation of the sidewalk.
  - (6) *Broken edges of saw-cuts.* Broken edges of saw-cuts caused by demolition require a new saw-cut.
  - (7) *Driveway culverts.* Driveway culverts shall be a minimum of 18" in diameter and shall have concrete surrounding the ends of the pipe to prevent crushing and erosion.
- (C) *Access ramps.*
- (1) *ADA requirements.* Access ramps shall conform to ADA requirements, including detectable warning devices such as truncated domes.
  - (2) *Sidewalk intersections.* Access ramps shall be installed at all sidewalk intersections with the street.
  - (3) *Raised crosswalk.* The raised or built-up access ramp shall not be installed on public streets without the approval of the City.
  - (4) *Minimum width.* The minimum width of a curb ramp shall be Forty-eight (48) inches. Sixty (60) inches is recommended, exclusive of flared sides.
  - (5) *Slope.* The slope of the ramp shall not be greater than 8.33% (1:12).
  - (6) *Slope of flared sides.* The slope of the flared sides shall not be greater than 10% (1:10).
  - (7) *Broom finish.* Access ramps shall have a broom finish.

### 7.12 Excavations and Bores

- (A) *Permit required.* It shall be unlawful for any person to make any excavation in or bore any street, alley, sidewalk, road, highway, or other public way in the city without first obtaining a permit to do so from the Mayor, or his/her duly authorized representative. Such permit shall be granted only after written application has been

## CITY OF ELM SPRINGS ZONING ORDINANCE

filed. The fee for each permit shall be paid in advance.

(B) *Lights and guards.* Every person making an excavation or bore as provided for in this chapter shall place and maintain lights and guards around the same for the protection of the public. Such lights and guards shall be subject to the approval of the Mayor.

(C) *Repairs of public property.*

(1) *Cost.* Each person making an excavation under this chapter shall repair the street or other public way at his own expense, and under the direction and supervision of the Mayor or his/her duly authorized representative.

(2) *Guarantee.* A guarantee in the form of cash deposit, bond or letter of credit shall be submitted to the City for the estimated amount of repair to the excavation. The guarantee will be released upon acceptance of the repair work.

(3) *Warranty.* The permittee shall warranty the materials and workmanship of the repairs for a period of one year.

(4) *Standards.* Repair of the street or other public way shall be made to the following standards:

(a) *Backfill.* All excavations shall be back filled with SB-2 material applied in eight (8) inch lifts.

(b) *Lift.* Each lift shall be individually compacted.

(c) *Asphaltic surface streets.* In the case of asphaltic surface streets, six inches (6") of Portland concrete shall be placed and allowed to cure. The concrete shall have a layer of prime coat applied and followed by a minimum of three inches (3") of hot-mixed, hot-land asphaltic concrete placed to an elevation matching the existing finished grade.

(d) *Portland concrete surface streets.* In the case of Portland concrete streets, all excavations shall be resurfaced with nine inches (9") of Portland concrete. Joint sealer shall be placed in the area between the repaired surface and the original surface.

(e) *Asphaltic sealed streets/unpaved streets.* Asphaltic sealed streets or unpaved streets shall be resurfaced with

a surface similar to that which existed before excavation.

(f) *Greenspace.* All grassed areas disturbed by the excavation or bore shall be restored to original condition or better. The disturbed area shall be sodded or seeded and mulched.

(5) *Notice.* The permittee shall notify the City, prior to beginning such repair, of the time and manner of repair and obtain the approval of the City prior to beginning of such repair and afford the City the opportunity of being present during the progress of such repair until completed.

(D) *Street closings for excavations.*

(1) *Prohibited without approval of Mayor.* It shall be unlawful for any person to cause a street to be closed due to the making of an excavation without the prior written approval of the Mayor. In granting such approval, the Mayor shall impose time limits and such other reasonable conditions as are necessary to minimize any inconvenience or danger to the public.

(2) *Exception.* This section shall not apply to emergency repairs.

**CHAPTER: 16 FEES**

16.01 FEES/SCHEDULE ..... 3

CITY OF ELM SPRINGS ZONING ORDINANCE



CITY OF ELM SPRINGS ZONING ORDINANCE

**CHAPTER 16: FEES**

**16.01 Fees/Schedule**

(A) *Fees.* Fees shall be imposed, as set forth below, to cover the cost of public notices and such other expenses as may be incurred in connection with processing of applications, plan reviews, amendments, permits, variances and other matters pertaining to the code.

(1) An alderman may present a resolution to the City Council to waive, or reduce development permit fees otherwise required by this chapter. If the reduction, or waiver would serve the public interest, alleviate an unfair burden upon an applicant, or be beneficial to the city as a whole, the City Council may grant such reduction, or waiver of permit fee.

(B) *Fee schedule.*

(1) *General.* Unless specific fees are set forth below, the City Council shall, by resolution, establish a schedule of fees and a collection procedure. The schedule of fees shall be posted in the City Clerks Office.

(2) *Signs.*

(a) *Signs.* For each sign or other advertising structure regulated by Chapter 9; \$10.00 plus \$1.00 per square foot of sign face.

(b) *Windblown signs.* \$10.00.

(c) *Sign variance.* Filing fee: \$75.00

(3) *Development.*

Preliminary Plat	\$500.00
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Final Plat	\$400.00
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Lot Split	\$125.00
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Large Scale Development	\$500.00
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(4) *Grading Permit*

Grading Permit	\$50.00
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(5) *Zoning.*

Rezoning	\$200.00
Conditional use	\$100.00
Variance:	
Before any violation has occurred	\$100.00
After any violation has occurred	\$200.00

(6) *Vacations.*

Filing fee	\$100.00
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(7) *Street Excavation/Boring*

Excavation/Boring Permit	\$100.00
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(8) *Building permits.*

(a) *General fees.* The following general provisions shall apply to all permits, including but not limited to building, electrical, gas, mechanical and plumbing; and shall apply in addition to the fees and requirements set forth in each separate code.

(i) *Permit fees.*

a. *Emergency, investigative and after hour(s).* In addition to the permit fee, an emergency fee for after hours inspection, investigations and emergency inspections shall be \$25.00 per inspection.

b. *Work without permit.* Where work for which a permit is required is started prior to obtaining said permit, the fees herein specified shall be doubled. Payment of such double fee shall not relieve any persons from fully complying with the requirement of any code in the execution of the work nor from any other applicable penalties.

c. *Re-inspection.* For each re-inspection for correction of violations and/or if installation is not ready for requested inspections the fee shall be \$25.00.

CITY OF ELM SPRINGS ZONING ORDINANCE

(e) *Mechanical permit fees.* Fees for a mechanical permit shall be paid to the city as follows:

(b) *Building permit.* Building permit fees shall be \$90.00 or \$.30/sf, whichever is greater. Additional building permit fees apply as follows:

Certificate of completion	\$15.00
C of O--existing building and/or change of occupancy use	\$10.00
Demolition permit	\$50.00
Footing/foundation only	\$50.00
Remodel permit	\$25.00
Moving permit	\$50.00
Permit extension	\$50.00
Commercial Plan review fee	50%of Building Permit Fee

Minimum permit fee for the first unit	\$20.00
Additional units greater than 1/2 horse power	\$5.00
Fractional horse power mechanical exhaust	\$2.00
Gas vent per unit	\$5.00

(f) *Plumbing.*

(i) *Plumbing permit fees.* Fees for plumbing permits shall be paid to the city, as follows:

- a. First five fixtures for \$25.00, plus \$1.75 for each additional fixture, and
- b. \$25.00 for each inspection required for plumbing under slab.

(c) *Electrical.*

(i) *Electrical permit fees.* Fees for permit shall be paid to the city, as follows:

- a. First four meters, new or replacement, \$25.00
- b. For each additional meter on a building, \$5.00
- c. \$0.25 per outlet, and \$10.00 per inspection with electrical wiring in concrete.
- d. Neon tube lighting shall be \$10.00 for each transformer.
- e. A minimum fee for any electrical permit shall be \$25.00.

(d) *Gas.*

(i) *Gas permit fees.* Fees for gas permit shall be paid to the city, as follows:

- a. First five fixtures for \$50.00 plus \$2.00 for each additional fixture.

(ii) *Exceptions.* Gas ranges/ovens, domestic clothes dryers, and space heaters not required to have a vent are exempted and gas permits are not required to connect these appliances to an existing gas outlet in an existing piping system.

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Glennia Pottus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2013-07 (the "Amending - Boring Ordinance") was, on the 30<sup>th</sup> day of October, 2013, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

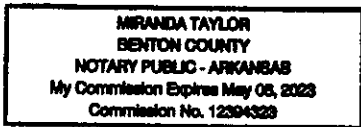
DATED this 30<sup>th</sup> day of OCT, 2013.

Ben Wall  
Mayor

Glennia Pottus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 30<sup>th</sup> Day of October, 2013.



Miranda Taylor  
Notary Public

My Commission Expires:

May 6, 2023

ORDINANCE NO. 2014-02

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ELM SPRINGS TO ALTER PORTIONS OF CHAPTER 2, SECTION B2.**

WHEREAS, the Elm Springs Planning Commission, after public hearing, after hearing testimony and studying the application of the zoning ordinance has determined that minor portions of the regulations contained in Chapter 2, section (B)(2) should be altered in order to assist in the fair, consistent and efficient application of the zoning ordinance, and to preserve the orderly growth and desirable living character of the City of Elm Springs, and;

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and does agree that these changes should be implemented.

**NOW THEREFORE BE IT ORDAINED:**

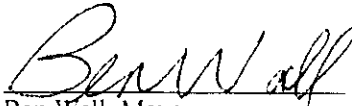
**Section 1.** The Elm Springs zoning ordinance, or "City of Elm Springs Development Code" is hereby amended, at Chapter 2, as reflected in the attached revised copy of the Chapter 2, section (B)(2).

**Section 2.** This Ordinance amends only that section specifically set forth herein and does not affect any other section or regulation of the City of Elm Springs Development Code, unless such other section specifically conflicts with this amendment, in which case this amendment shall control.


**Section 3.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

PASSED AND APPROVED this 17<sup>th</sup> day of Feb., 2014.

APPROVED:

  
Ben Wall, Mayor

Attest:

  
Glenda Pettus, City Clerk

**CHAPTER 2: ZONING REGULATIONS**

**2.01 Application of District Regulations**

*Minimum regulations/exceptions.* The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly for each class or kind of structure or land, except as hereinafter provided:

- (A) *General.* No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it was located.
- (B) *Limitations.* No building or other structure shall hereafter be erected or altered:
  - (1) *Height/bulk.* To exceed the height or bulk;
  - (2) *Number of units.* To accommodate or house a greater number of units. For all residential zoning districts, only one residential structure is allowed for each parcel of land;
  - (3) *Lot area.* To occupy a greater percentage of lot area;
  - (4) *Setback/open spaces.* To have narrower or smaller rear setbacks, front setbacks, side setbacks, or other open spaces than herein required; or
  - (5) *Other.* In any other manner contrary to the provisions of this chapter.
- (C) *Independent compliance.* No part of a setback, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a setback, open space, or off-street parking or loading space similarly required for any other building.
- (D) *Annexation.* All territory which may hereafter be annexed to the city shall be considered to be in District R-A until the territory is rezoned as provided herein.
- (E) *Measuring setbacks.*
  - (1) *Front.* Measured from the street right-of-way, or street right-of-way setback as required by the Master Street Plan.
  - (2) *Side.* Measured from the side property line.

(3) *Rear.* Measured from the rear property line.

(4) *Corner.* A corner lot has two fronts and two sides.

(G) *Conditional Uses.* These uses are permissible if approved by the Planning Commission. See Chapter 3, Use Conditions.

**2.02 District R-A, Residential-Agricultural**

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Livestock
Unit 8	Single-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured Home Park
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 30	Extractive Uses
Unit 36	Wireless communications facilities
Unit 41	Accessory Dwelling Units

(C) *Density.*

Units per acre	One
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(D) *Bulk and area regulations.*

Lot width minimum	100 ft.
Lot Area Minimum:	1 acres
Lot area per dwelling unit	1 acres

E) *Setback requirements.*

Front	Side	Rear
50 ft.	10 ft.	25 ft.

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Webb and Nenia Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2014-02 (the "Animal Zoning Ordinance") was, on the 19 day of February, 2014, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 19 day of February, 2014.

\_\_\_\_\_  
Mayor

Nenia Pettus  
\_\_\_\_\_  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this \_\_\_\_\_  
Day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**ORDINANCE NO. 2014-03**

**CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS**

**AN ORDINANCE ADOPTING AN UPDATED PLANNING AREA BOUNDARY MAP**

WHEREAS, as a result of a change in Arkansas law, the planning area boundary for the City of Elm Springs must be changed; and,

WHEREAS, the Northwest Arkansas Regional Planning Commission has provided the planning commission with a map showing the location of the new boundary; and,

WHEREAS, after a public hearing, the planning commission has recommended that the City Council adopt the new planning area boundary map.

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and does agree that the updated planning area map should be adopted.

**NOW THEREFORE BE IT ORDAINED:**

**Section 1.** The planning area map showing the new planning boundary for the City of Elm Springs is hereby adopted. A copy of the map is attached hereto, and is incorporated herein.

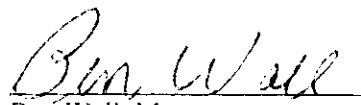
**Section 2.** The revised planning area boundary map shall be filed with the clerks of Washington and Benton Counties.

**Section 3.** This Ordinance amends only that section specifically pertaining to the planning area boundary and does not affect any other section or regulation of the City of Elm Springs Development Code, unless such other section specifically conflicts with this amendment, in which case this amendment shall control.

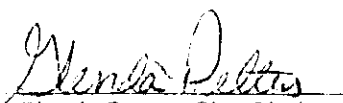
**Section 4.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

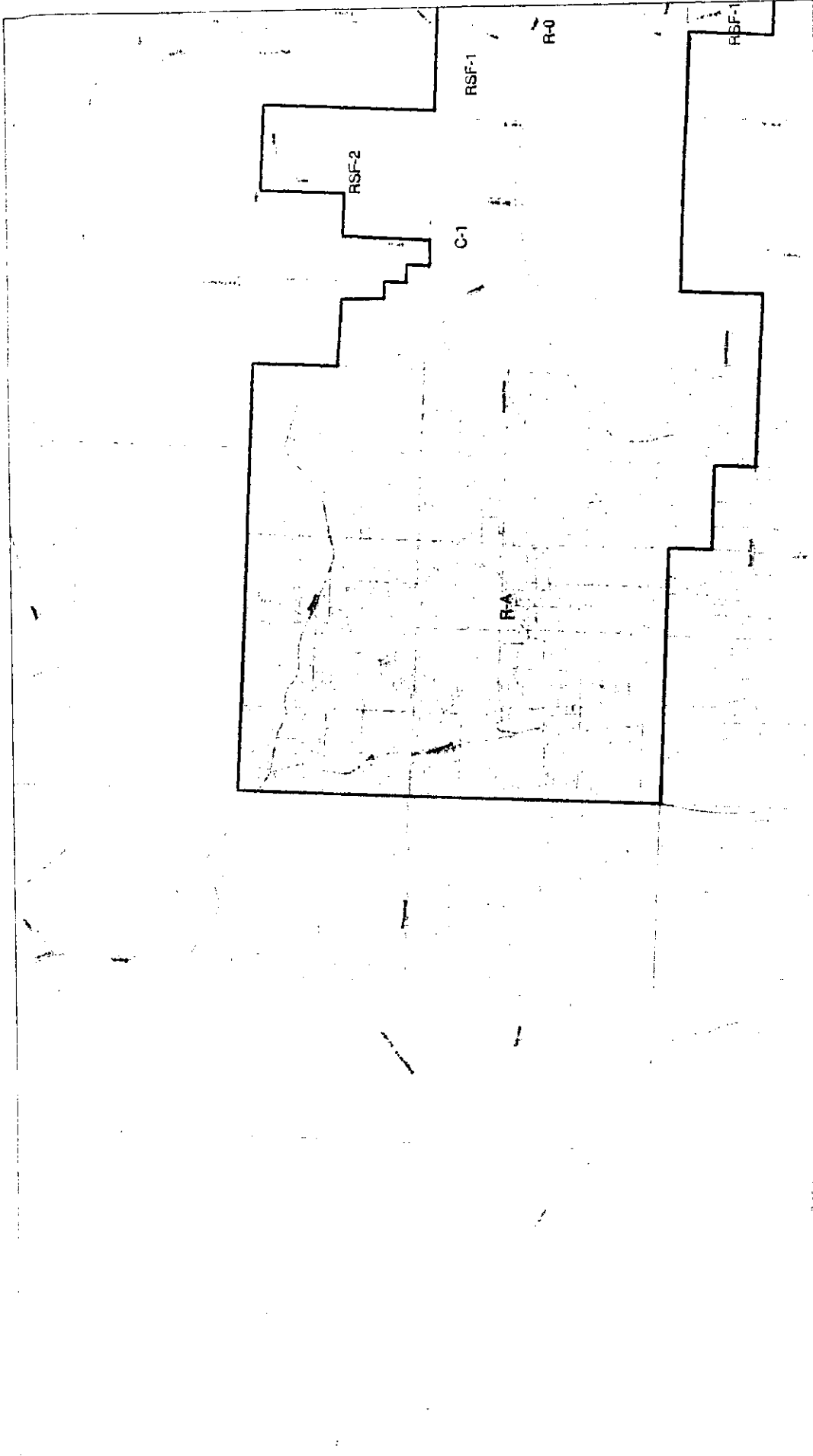
**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2014.

**APPROVED:**

  
Ben Wall, Mayor

Attest:

  
Glenda Pettus, City Clerk



# ELM SPRINGS, ARKANSAS PLANNING AREA MAP

2014

ELM SPRINGS, ARKANSAS  
PLANNING AREA  
Elm Springs City Limits





ORDINANCE NO. 2014- 06

CITY OF ELM SPRINGS, BENTON & WASHINGTON COUNTIES, ARKANSAS

**AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE ATTACHED LEGAL DESCRIPTION LOCATED AT 108 ELM SPRINGS ROAD, IN THE CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS**

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by Paul Miller 108 N. Elm Springs Road, Elm Springs, Washington County, Arkansas 72762, requesting that the City Council rezone the property described herein be changed from RA (Residential Agricultural), to C1 (Neighborhood Commercial); and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on the 14th day of April, 2014, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described as follows, which is incorporated herein by reference is hereby changed from, RA to C1 Neighborhood Commercial.

Property description is attached hereto as Exhibit "A".

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

Section 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

PASSED AND APPROVED this 19 day of May, 2014.

APPROVED:

Ben Wall  
Ben Wall, Mayor

ATTEST:

Glenda Pettus  
Glenda Pettus, City Clerk/Recorder

"Exhibit A"

750-00564-000 MILLER PAUL E JR

30-18-30 Elm Springs Outlots 30-18-30 1Acres PT W1/2 SE NE 1.00A (208 FT 8 IN x 208 FT 8 IN)

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2014-06 (the "Rezone 108 Elm Springs Road Ordinance") was, on the 21 day of May, 2014, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

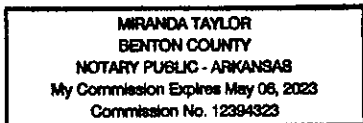
DATED this 21 day of May, 2014.

Ben Wall  
Mayor

Glenda Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21<sup>st</sup> Day of May, 2014.



Miranda Taylor  
Notary Public

My Commission Expires:

May 6, 2023

ORDINANCE NO. 2014- 07

CITY OF ELM SPRINGS, BENTON & WASHINGTON COUNTIES, ARKANSAS

**AN ORDINANCE REZONING THE PROPERTY DESCRIBED IN THE ATTACHED LEGAL DESCRIPTION LOCATED AT 6268 ELM SPRINGS ROAD, IN THE CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS**

**WHEREAS**, an Application for Rezoning was submitted and filed with the City of Elm Springs by Robert L. Craine, to rezone the property at 6268 Elm Springs Road, Washington County, Arkansas 72762, requesting that the City Council rezone the property described herein be changed from RSF1 (Residential Single Family), to C1 (Neighborhood Commercial); and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, on the 12th day of May, 2014, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The zone classification of the property described as follows, is hereby changed from, RSF1-Residential Single Family to C1-Neighborhood Commercial.

Property description is attached hereto as Exhibit "A".

Section 2. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

Section 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

PASSED AND APPROVED this 19 day of May, 2014.

APPROVED:

Ben Wall

Ben Wall, Mayor

ATTEST:

Glenda Pettus

Glenda Pettus, City Clerk/Recorder

**EXHIBIT A—LEGAL DESCRIPTION**  
Land Situated in County of Washington, State of Arkansas

Part of the South Half (S ½) of the South Half (S ½) of the West Half (W ½) of the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of Section Thirty-two (32), Township Eighteen (18) North, Range Thirty (30) West, Washington County, Arkansas, being more particularly described as follows: Beginning 151 feet West of the Southeast corner of the West Half of the Northwest Quarter of the Northeast Quarter of said Section 32, running thence North 330 feet, thence West 151 feet, thence South 330 feet, thence East 151 feet to the point of beginning. Subject to easements, rights-of-way and restrictive covenants, if any.

**ACKNOWLEDGEMENT**

STATE OF ARKANSAS     }  
  } ss  
COUNTY OF BENTON     }

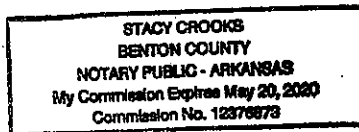
BE IT REMEMBERED, that on this day personally appeared before the undersigned, a Notary Public, within and for the County and State aforesaid, **JERRY ENGERT**, known to be the person described in the aforesaid Quit Claim Deed, and state that he executed the same for the uses and purposes and consideration therein set forth and that he executed the same of his own free will and act.

WITNESS my hand and seal this 15<sup>th</sup> day of April, 2014.

Stacy Crooks  
Notary Public

My Commission Expires:

5-20-20



This Document Prepared By:  
Joanne M. McCracken  
MEISTER & MCCracken LAW FIRM, PLLC  
221 North 3<sup>rd</sup> Street  
Rogers AR 72756  
479.633.8499 ABN 2001175

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2014-07 (the "Rezone Lot 68 Elm Springs Pt Ordinance") was, on the 21 day of May, 2014, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

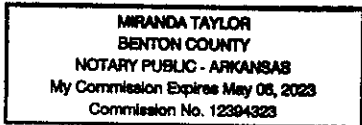
DATED this 21 day of May, 2014.

Ben Wall  
Mayor

Glenda Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21<sup>st</sup> Day of May, 2014.



Miranda Taylor  
Notary Public

My Commission Expires:

May 6, 2023



**ORDINANCE NO. 2014- 09**

**AN ORDINANCE ESTABLISHING THE MINIMUM REGULATIONS GOVERNING THE MAINTENANCE OF ALL PROPERTY BUILDING AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES, BY ADOPTING THE MOST CURRENT, CLEAR, EFFICIENT AND APPLICABLE BUILDING CODES.**

**WHEREAS**, the building and construction codes utilized and applied by the City of Elm Springs are in need of updating and augmentation and it is the intention of the City Council to adopt and apply the International Building Codes as well as to update the other building and construction codes, as listed herein, to best protect the health and safety of the citizens of Elm Springs.

**NOW, THEREFORE, BE IT HEREBY ORDAINED:**

Section 1. That certain documents, three (3) copies of which are on file in the office of the City Clerk of the City of Elm Springs, Arkansas, being marked and designated as:

The International Building Code;  
The 2012 Arkansas Mechanical Code;  
The 2006 Arkansas Plumbing Code;  
The 2014 National Electric Code;  
The 2012 Arkansas Fire Prevention Code; and  
The International Code Council 500 Standard for the Design  
and Construction of Storm Shelters

including all Appendix Chapters, as published by the International Codes Council, Inc., and all other applicable codes councils or authorities, be and is hereby adopted as the Building and Construction Codes of the City of Elm Springs in the State of Arkansas; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Codes are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in this ordinance.

Section 2. This Ordinance supersedes and replaces any other Ordinances in conflict herewith, except that nothing contained in this Ordinance, nor the codes adopted hereby, shall in any way alter or modify the "employment at will" status of all employees of the City of Elm Springs, including any and all employees who will apply and administer these codes. The City Council expressly intends that the "employment at will" status of all City of Elm Springs employees shall remain unaltered and unmodified, regardless of any language regarding termination for cause.

discipline or termination procedures, or any other related language which may be contained in the codes adopted hereby.

Section 3. That three (3) copies of such Codes are now and shall be kept on file in the office of the City Clerk and the city Building Inspector, and these copies of such Codes are now and shall be available for all persons desiring to examine the same, and have been available for such viewing for a reasonable time prior to the final passage by this City Council of this ordinance adopting such Codes.

Section 4. That in the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance or the Codes adopted hereby shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance, Code, code section or chapter as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance, these Codes, codes sections or chapters shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

PASSED AND APPROVED THIS 20<sup>th</sup> DAY OF Oct, 2014

APPROVED:

Ben Wall  
Ben Wall, Mayor

Attest:

Glenda Pettus  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Nelda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2014-03 (the "Zoning - Building Code Ordinance") was, on the 23 day of October, 2014, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

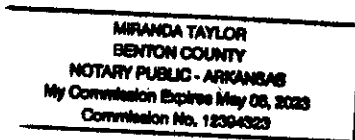
DATED this 23 day of October, 2014.

Ben Wall  
Mayor

Nelda Pettus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 23<sup>rd</sup> Day of October, 2014.



Miranda Taylor  
Notary Public

My Commission Expires:

May 6, 2023

ORDINANCE NO. 2015-06

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ELM SPRINGS TO ALTER SECTIONS PERTAINING TO THE ISSUANCE OF CONDITIONAL USE PERMITS FOR CERTAIN HOME BUSINESSES AND REGARDING FEES FOR NON-PROFIT BUSINESS LICENSE FEES

WHEREAS, the Elm Springs Planning Commission, after hearing testimony and comments from the public, and studying the application of the zoning ordinance, has determined that portions of the regulations pertaining to the issuance of conditional use permits for certain home businesses and pertaining to business license fees for non-profit businesses contained in the Elm Springs Zoning Ordinance should be altered in order to assist in the fair, consistent and efficient application of the zoning ordinance, and to preserve the orderly growth and desirable living character of the City of Elm Springs, and;

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and does agree that these changes should be implemented.

**NOW THEREFORE BE IT ORDAINED:**

**Section 1.** The Elm Springs zoning ordinance, or "City of Elm Springs Development Code" pertaining to use conditions, is hereby amended, at Chapter 4.02(F), as follows:

**(F) Exceptions.** If the proposed conditional use is for a home based business that meets the following criteria, then the Conditional Use Permit may be approved administratively by the Mayor or the Mayor's designee:

- (1) There are no outside employees.
- (2) There will be no customer's visiting the site.
- (3) There will be no large-scale deliveries (ex. Semi-truck and trailer) to the site.
- (4) There will be no signage.
- (5) The business does not create an excessive disturbance such as noise, dust, or odor.

**Section 2.** The Elm Springs zoning ordinance, or "City of Elm Springs Development Code" pertaining to fees, is hereby amended, at Chapter 16.01(B)(8), as follows:

**(8) Business License.**


- (a) **Fees.** The fee for a business license shall be \$35 / year. For the first year, the fee will be prorated for the month that the business license application is approved.
- (b) **Exceptions.** The business shall be exempt from the business license fee if the business is registered as a Non-profit Organization (501(c)(3)).

**Section 3.** This Ordinance amends only that section specifically set forth herein and does not affect any other section or regulation of the City of Elm Springs Development Code, unless such other section specifically conflicts with this amendment, in which case this amendment shall control.

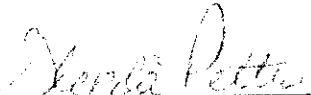
**Section 4.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

PASSED AND APPROVED this 18 day of May, 2015.

**APPROVED:**

  
Harold Douthit, Mayor

Attest:

  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Decker and Monica Peters, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2015-02 (the "Animal Business License" Ordinance") was, on the 19 day of May, 2015, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 21-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 19 day of May, 2015.

Harold Decker  
Mayor

Monica Peters  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 19 Day of May, 2015.



Miranda Taylor  
Notary Public

My Commission Expires:

May 06, 2023

ORDINANCE NO. 2016- 01

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS

**AN ORDINANCE REZONING APPROXIMATELY 15 ACRES OF REAL PROPERTY LOCATED ON 12809 KENNETH PRICE ROAD FROM RESIDENTIAL-AGRICULTURAL R- TO RESIDENTIAL-OFFICE R-O.**

**WHEREAS**, an Application for Rezoning was filed with the City of Elm Springs on the 23rd day of December, 2015, by Kevin Hartley asking the City of Elm Springs to rezone approximately 15 acres of real property located on 12809 Kenneth Price Road, City of Elm Springs, Arkansas described therein and herein from Residential-Agricultural (R-A) to Residential-Office (R-O); and

**WHEREAS**, after due notice as required by law, the Elm Springs Planning Commission has, at the time and place mentioned in the notice, heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Elm Springs City Council; and

**WHEREAS**, the Elm Springs City Council has determined that public interest and welfare will not be adversely affected by the requested rezoning.

**NOW THEREFORE, BE IT ENACTED**, by the City Council of the City of Elm Springs, as follows:

Section 1. The City of Elm Springs hereby changes the zone classification from Residential-Agricultural (R-A) to Residential-Office (R-O) for certain real property located on 12809 Kenneth Price Road, more particularly described as:

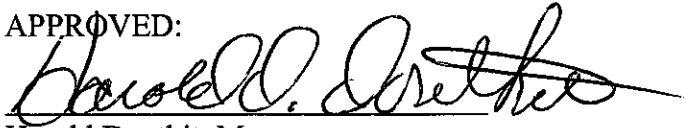
[See Adjusted Tract B on Exhibit "A" attached hereto]

Section 2. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed here from, and the remaining part of this ordinance shall continue in full force and effect.

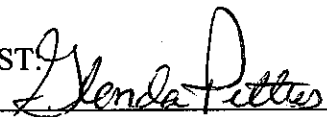
Section 3. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

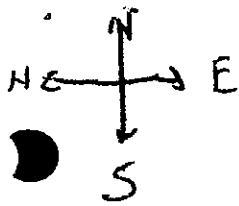
PASSED: February 18, 2016.

APPROVED:

  
Harold Douthit, Mayor

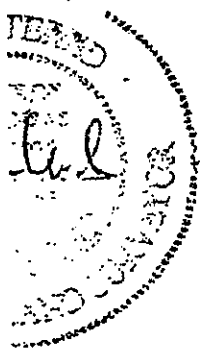
ATTEST:

  
Glenda Pettus, City Clerk



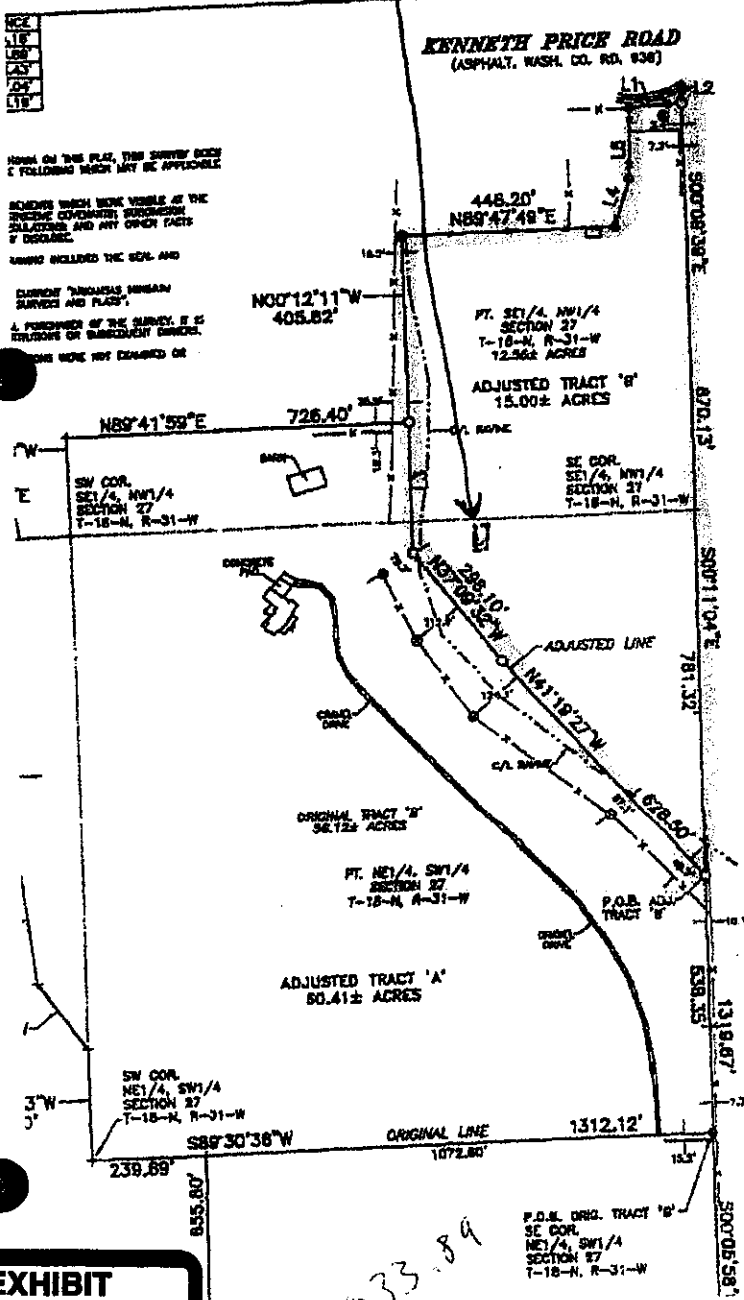
# Shop Details:

- 40' x 60' Metal building
- Constructed by NWA metal buildings
- Color - outside walls will be tan Roof will be brown
- 1 overhead door
- front of building will face the east



# Shop Location

Scale 1" = 200'



**DESCRIPTION - ORIGINAL TRACT 'A'**  
 A PART OF THE SOUTHWEST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION TWENTY-SEVEN (27), TOWNSHIP EIGHTEEN (18) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING IN BRUSH CREEK DRIVE; THENCE N00°18'04\"/>

**DESCRIPTION - ORIGINAL TRACT 'B'**  
 A PART OF THE SOUTHWEST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) AND A PART OF THE NORTH HALF (N1/2) OF THE SOUTHWEST QUARTER (SW1/4) ALL IN SECTION TWENTY-SEVEN (27), TOWNSHIP EIGHTEEN (18) NORTH, RANGE THIRTY-ONE (31) WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SE1/4) OF SAID SECTION TWENTY-SEVEN (27), SAID POINT BEING AN EXISTING IRON; THENCE S89°30'36\"/>

**DESCRIPTION - ADJUSTED TRACT 'A'**  
 A PART OF THE SOUTHWEST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND A PART OF THE OF THE SOUTHWEST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) AND A PART OF THE NORTH HALF (N1/2) OF THE SOUTHWEST QUARTER (SW1/4); ALL IN SECTION TWENTY-SEVEN (27), TOWNSHIP EIGHTEEN (18) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4), SAID POINT BEING IN BRUSH CREEK AVENUE; THENCE S89°40'42\"/>

**EXHIBIT**  
 A

7033-89



PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Dauthit and Glenda Petrus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2016-01 (the "Repeal 12009 Permit Price Fee Ordinance") was, on the 24 day of February, 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 24 day of February, 2016.

Harold Dauthit  
Mayor

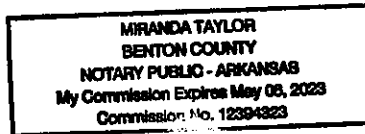
Glenda Petrus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 24 Day of February, 2016.

Miranda Taylor  
Notary Public

My Commission Expires:  
May 6, 2023



ORDINANCE NO. 2016- 02

CITY OF ELM SPRINGS, ARKANSAS

**AN ORDINANCE REINSTATING AND AMENDING ORDINANCE NO. 2012-06  
REGARDING SEWER CAPACITY CHARGE IN THE CITY OF ELM SPRINGS, AR**

**WHEREAS**, on February 21, 2005, the City Council of the City of Elm Springs, Arkansas, adopted Ordinance No. 2005-02 establishing an assessment of a Capacity Charge of \$2,000.00 at the time the Building and/or Sewer Permit is issued; and

**WHEREAS**, on October 21, 2013, the City Council of the City of Elm Springs, Arkansas, adopted Ordinance No. 2013-10 to eliminate the assessment of a Capacity Fee of \$2,000 at the time the Building and/or Sewer permit is issued; and

**WHEREAS**, the City Council of Elm Springs, Arkansas has determined that due to increased sewer maintenance, capacity and growth that the assessment fee shall be increased to \$2,500.00 to meet the demand; and

**WHEREAS**, it is in the best interest of the City of Elm Springs, Arkansas to amend and reinstate Ordinance No. 2012-06 which authorizes the collection of a Capacity Charge to be assessed at the time the Building and/or the Sewer permit is issued

**NOW THEREFORE**, BE IT ORDAINED, by the City Council of the City of Elm Springs, as follows:

**Section 1:** That the City of Elm Springs, Arkansas shall reinstate and increase the assessment of a Capacity Fee to \$2,500.00 at the time a Building and/or the Sewer Permit is issued.

**Section 2: Emergency Clause:** it is declared by the City Council that an emergency exists, it being necessary to immediately address the continued operation and maintenance of the of the sewer system and this ordinance shall be and is effective from the date of its passage.

**PASSED AND APPROVED** this 21 day of April, 2016.

**APPROVED:**

  
Harold Douthit, Mayor

**ATTEST:**

  
Glenda Pettus, City Clerk/Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Douthett and Glenda Pottas, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2016-03 (the "Amend Zoning" Ordinance") was, on the 22 day of April, 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 22 day of April, 2016.

Harold Douthett  
Mayor

Glenda Pottas  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 22<sup>nd</sup> Day of April, 2016.

Miranda Taylor  
Notary Public

My Commission Expires:

May 6, 2023

MIRANDA TAYLOR  
BENTON COUNTY  
NOTARY PUBLIC - ARKANSAS  
My Commission Expires May 06, 2023  
Commission No. 12394323

ORDINANCE NO. 2016-03

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS

AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF ELM SPRINGS, ARKANSAS, TO ALTER SECTIONS PERTAINING TO COMMERCIAL ZONING, DRIVEWAY STANDARDS APPROACH TO PROPERTY LINE AND POSTED NOTICES OF PUBLIC HEARINGS FOR ZONING VARIANCES AND APPEALS

WHEREAS, the Elm Springs Planning Commission, after hearing testimony and comments from the public, and studying the application of the zoning ordinance, has determined that portions of the regulations pertaining to commercial zoning, driveway standards and posted notices contained in the Elm Springs Zoning Ordinance should be altered in order to assist in the fair, consistent and efficient application of the zoning ordinance, and to preserve the orderly growth and desirable living character of the City of Elm Springs, and;

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and does agree that these changes should be implemented.

NOW THEREFORE BE IT ORDAINED:

**Section 1.** The Elm Springs zoning ordinance, or "City of Elm Springs Development Code" pertaining to commercial zoning, is hereby amended, at Chapter 2, Section 2.10, District C-1, Commercial, as follows:

**2.10 District C-1, Commercial**

(A) *Purpose.* The Commercial District is designed primarily to provide convenience goods, personal services or shopping centers which provide a wide range of retail uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 12	Limited Business
Unit 13	Eating places
Unit 14	Hotel, Motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping goods

<b>Unit 17</b>	<b>Transportation trades and services</b>
<b>Unit 18</b>	<b>Gasoline service stations and drive-in restaurants</b>
<b>Unit 19</b>	<b>Commercial recreation, small sites</b>
<b>Unit 25</b>	<b>Offices, studios, and related services</b>
<b>Unit 35</b>	<b>Outdoor music establishments*</b>

**(2) Conditional uses.**

<b>Unit 2</b>	<b>City-wide uses by conditional use permit</b>
<b>Unit 3</b>	<b>Public protection and utility facilities</b>
<b>Unit 4</b>	<b>Cultural and recreational facilities</b>
<b>Unit 14</b>	<b>Hotel, Motel and amusement facilities</b>
<b>Unit 16</b>	<b>Shopping goods</b>
<b>Unit 19</b>	<b>Commercial recreation, small sites</b>
<b>Unit 28</b>	<b>Center for collecting recyclable materials</b>
<b>Unit 29</b>	<b>Dance Halls</b>
<b>Unit 32</b>	<b>Sexually oriented business</b>
<b>Unit 33</b>	<b>Adult live entertainment club or bar</b>
<b>Unit 34</b>	<b>Liquor Stores</b>
<b>Unit 36</b>	<b>Wireless communications facilities*</b>
<b>Unit 38</b>	<b>Mini-storage units</b>

**(C) Density. None.**

**(D) Bulk and area regulations. None.**

**(E) Setback regulations.**

Front, when parking lot in front	50 ft.
Front, when parking lot in rear	10 ft.
Side	None
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.

**(F) Height regulations.** Maximum height is four stories or 55 feet whichever is less.

**(G) Building area.** On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

**Section 2.** The Elm Springs zoning ordinance, or “City of Elm Springs Development Code” pertaining to driveway standards, is hereby amended, at Chapter 8, Section 8.09 (D)(1), Driveway Standards as follows:

**(D) Driveway Standards.**

**(1) Driveway Approach to Property Line.** The driveway approach shall extend to the property line and/or master street plan right-of-way from the paved street and shall be designed, permitted, and paved with concrete in accordance with §7.11 *Sidewalk and Driveway Specifications.*

**Section 4.** The Elm Springs zoning ordinance, or “City of Elm Springs Development Code” pertaining to posted notices, is hereby amended, at Chapter 14, Section 14.07(B)(2)(b), Posted Notice as follows:

**(B) Notice of public hearing.**

**(2) Methods of Notice.** Notice shall be provided by the following methods, as required by this chapter.

**(b) Posted Notice.** The applicant shall post notice at least fifteen (15) days prior to the meeting of the Board of Adjustment. Proof of notice shall be provided as required by this chapter.

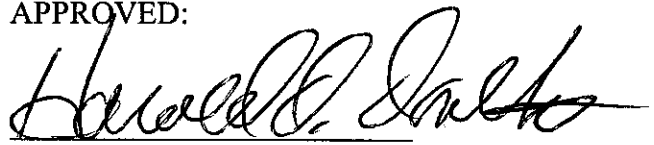
**Section 4.** This Ordinance amends only that section specifically set forth herein and does not affect any other section or regulation of the City of Elm Springs Development Code, unless such other section specifically conflicts with this amendment, in which case these amendments shall control.

**Section 5.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

**Section 6: Emergency Clause:** the City Council has determined that the orderly growth and development of the City of Elm Springs is essential to providing a healthy lifestyle to its citizens, therefore, an emergency is declared and this ordinance shall go into effect immediately upon its passage.

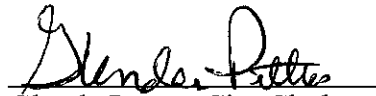
PASSED AND APPROVED this 21 day of April, 2016.

APPROVED:



Harold Douthit, Mayor

Attest:

  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Douthett and Glanda Petre, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2016-02 (the "Reinstatement Capacity Fee Ordinance") was, on the 22 day of April, 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 22 day of April, 2016.

Harold Douthett  
Mayor

Glanda Petre  
City Clerk

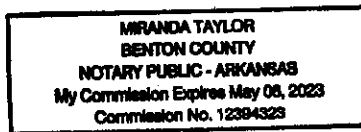
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 22<sup>nd</sup> Day of April, 2016.

Miranda Taylor  
Notary Public

My Commission Expires:

May 06, 2023





ORDINANCE NO. 2016-04

CITY OF ELM SPRINGS, ARKANSAS

**AN ORDINANCE TO AMEND THE RULES AND REGULATIONS  
FOR CONNECTING TO SEWER IN ELM SPRINGS, ARKANSAS,  
AND FOR OTHER PURPOSES.**

**WHEREAS**, the City Council has determined that the onset of growth and development has made it necessary to amend the sewer connection rules and regulations; and,

**WHEREAS**, after much study, discussion and consideration of the current situation with the Elm Springs sewer plant, and in consideration of anticipated residential growth, the Sewer Committee has recommended that the City Council amend the rules and regulations which mandate connection to the sewer system upon failure or repair of an existing residential septic tank system within city limits; and,

**WHEREAS**, the City Council has been advised that the remaining capacity of the sewer system should be preserved to address anticipated development of residential lots which have been platted too small to accommodate septic systems, and therefore will have to be connected to the sewer system; and,

**WHEREAS**, in order to preserve the ability to accommodate residential development which is reasonably foreseeable and to most efficiently and effectively manage and allocate the limited resources currently available for sewer treatment in Elm Springs, the City Council agrees that the current mandate should be altered.

**THEREFORE, BE IT ORDAINED:**

Section 1. The requirement that structures which currently utilize septic systems connect to the Elm Springs sewer system is suspended. Structures in Elm Springs which currently utilize septic systems may continue to do so, until the Elm Springs City Council reinstates the sewer connection requirement. All structures which utilize septic systems must comply with all applicable laws, rules and regulations of the State of Arkansas, including, but not limited to Arkansas Department of Health Regulations.

Section 2. If an existing septic system in Elm Springs requires repair or replacement, the owner of the structure may connect to the Elm Springs sewer system, or, the owner may repair or replace the existing septic system, provided that, if a septic tank replacement is required, a tank compliant with the Elm Springs sewer system, as provided for in Elm Springs ordinances and as determined by the Elm Springs utility or sewer director, must be installed, so that future connection to the Elm Springs sewer system can be made. This determination shall be made by the Elm Springs utility or sewer director, in consultation with the Elm Springs Sewer Committee.

Section 3. If at any time a determination is made by the Arkansas Department of Health and the Elm Springs utility or sewer department that a septic system is not permissible to serve a structure in the City of Elm Springs, then that structure shall be required to connect to the Elm Springs sewer system.

Section 4. This ordinance is intended to alter the current sewer Elm Springs sewer system hookup requirement, and all previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

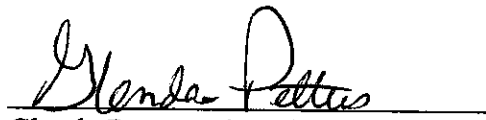
Section 5: The need to address the sewer situation in the City of Elm Springs is acute, and in order to protect the environment, health, safety and welfare of the citizens of Elm Springs, an emergency is declared, and this ordinance shall go into full force and effect immediately upon its passage.

PASSED THIS 21 DAY OF April, 2016

APPROVED:

  
Harold Douthit, Mayor

ATTEST:

  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Douthett and Glenda Petrus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2016-04 (the "Amend Regulation Hooking to Sewer Ordinance") was, on the 22 day of April, 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 22 day of April, 2016.

Harold Douthett  
Mayor

Glenda Petrus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 22<sup>nd</sup> Day of April, 2016.

Miranda Taylor  
Notary Public

My Commission Expires:  
May 6, 2023

MIRANDA TAYLOR  
BENTON COUNTY  
NOTARY PUBLIC - ARKANSAS  
My Commission Expires May 06, 2023  
Commission No. 12394323

ORDINANCE NO. 2016-05

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS

**AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF ELM SPRINGS, ARKANSAS, TO CORRECT A FEE TO MAKE IT CONSISTENT WITH OTHER, SIMILAR FEES, AND TO CORRECT A NOTIFICATION TIME TO MAKE IT CONSISTENT WITH OTHER, SIMILAR NOTIFICATION TIMES**

**WHEREAS**, the Elm Springs Planning Commission, after hearing testimony and comments from the public, and studying the application of the zoning ordinance, has determined two errors contained in the Elm Springs Zoning Ordinance must be corrected, in order to assist in the fair, consistent and efficient application of the zoning ordinance, and to preserve the orderly growth and desirable living character of the City of Elm Springs, and;

**WHEREAS**, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and does agree that these changes should be implemented.

**NOW THEREFORE BE IT ORDAINED:**

**Section 1.** The Elm Springs zoning ordinance, or “City of Elm Springs Development Code” pertaining to posted notices, is hereby amended, at Chapter 14, Section 14.07(B)(2)(a), Written Notice as follows:

**(B) Notice of public hearing.**

**(2) Methods of Notice.** Notice shall be provided by the following methods, as required by this chapter.

**(a) Written Notice.** Written notice shall be provided at least fifteen (15) days prior to the meeting of the Board of Adjustment. Proof of notice shall be provided as required by this chapter.

**Section 2.** The Elm Springs zoning ordinance, or “City of Elm Springs Development Code, at Chapter 14, Section 14.01(C)(4), pertaining to fees charged, shall be amended so that the fee shall be **Fifty (\$50.00) dollars.**


**Section 3.** This Ordinance amends only that section specifically set forth herein and does not affect any other section or regulation of the City of Elm Springs Development Code, unless such other section specifically conflicts with this amendment, in which case these amendments shall control.

**Section 4.** In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

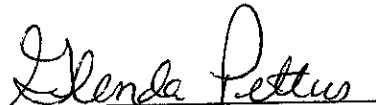
**Section 5: Emergency Clause:** the City Council has determined that the orderly growth and development of the City of Elm Springs is essential to providing a healthy lifestyle to its citizens, therefore, an emergency is declared and this ordinance shall go into effect immediately upon its passage.

PASSED AND APPROVED this 21 day of July, 2016.

APPROVED:

  
Harold Douthit, Mayor

Attest:

  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Douthett and Glenda Petrus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2016-05 (the "Amene Zone" Ordinance") was, on the 26 day of July, 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 26 day of July, 2016.

Harold D. Douthett  
Mayor

Glenda Petrus  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 27 Day of July, 2016.

Miranda Taylor  
Notary Public

My Commission Expires:  
May 6, 2023

MIRANDA TAYLOR  
BENTON COUNTY  
NOTARY PUBLIC - ARKANSAS  
My Commission Expires May 06, 2023  
Commission No. 12394323

ORDINANCE NO. 2016- 016

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS

**AN ORDINANCE REPEALING ORDINANCE 2016-1; DECLARING THE  
SUBJECT PROPERTY RE-ZONED AS RESIDENTIAL-  
AGRICULTURAL; DECLARING AN EMERGENCY AND FOR OTHER  
PURPOSES.**

WHEREAS, the City of Elm Springs, Arkansas has previously re-zoned certain real property within the City of Elm Springs; and

WHEREAS, in resolution of certain pending litigation against the City and for other reasons, the City of Elm Springs has determined that it should vacate the prior re-zoning of the property in question and should declare the new zoning of such property.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Elm Springs, Arkansas:

SECTION 1. The City of Elm Springs, hereby repeals Ordinance No. 2016-01, with the effect of such repeal to change the zone classification of the real property situated at 12809 Kenneth Price Road from Residential-Office (R-O) to Residential-Agricultural (R-A), said property being more particularly described as follows:

[See Exhibit "A" attached hereto]

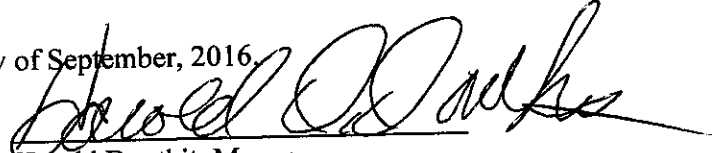
SECTION 2. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this Ordinance is declared invalid for any reason, then that part shall be considered severed, and the remaining part of this Ordinance shall continue in full force and effect.

SECTION 3. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

SECTION 4. EMERGENCY. Factors including resolution of pending litigation exist to make finalization of this Ordinance urgent. Accordingly, the immediate effectiveness of the provisions of this Ordinance is necessary and proper for the preservation of the peace, health,

safety, and welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 15 day of September, 2016.

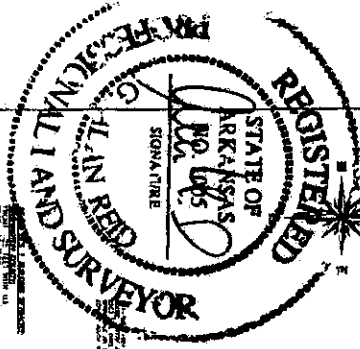
  
Harold Douthit, Mayor

ATTEST:

  
Twila Taylor, City Clerk

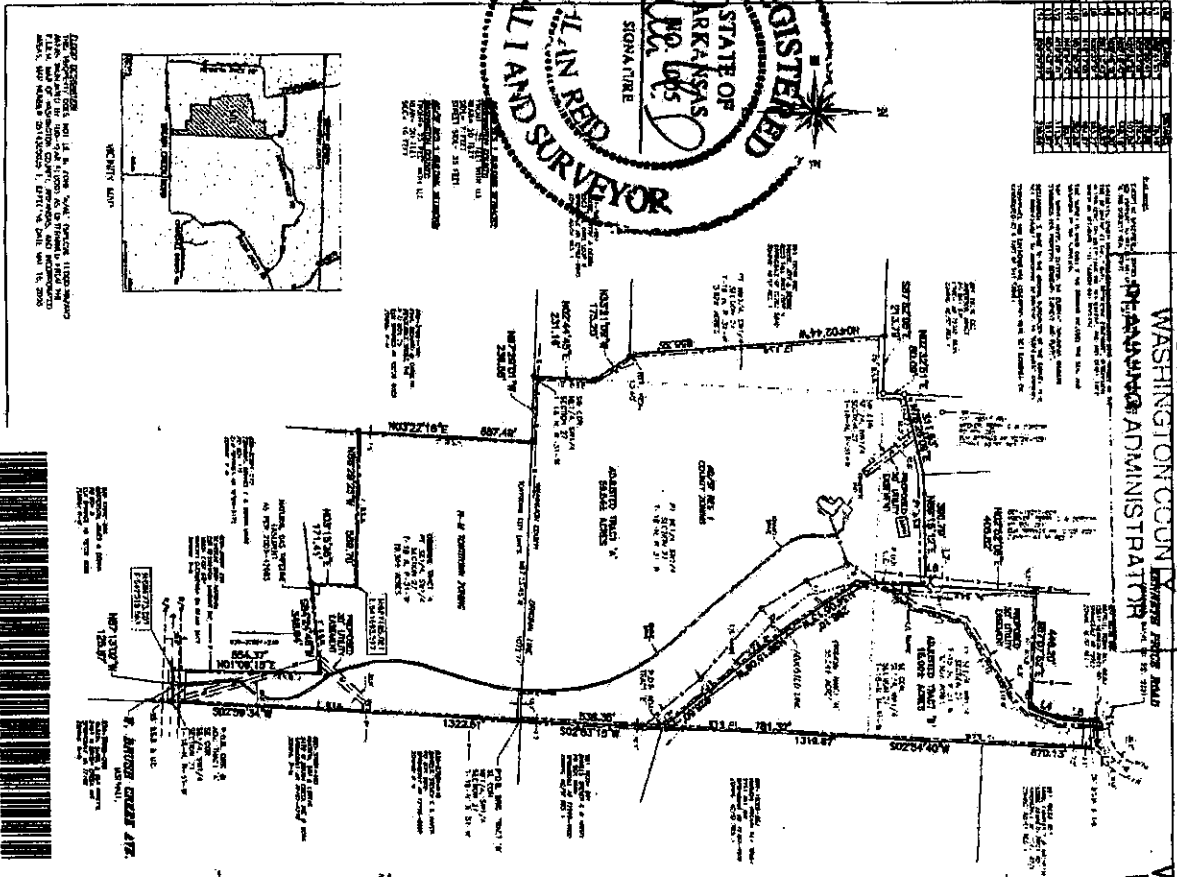


Copy



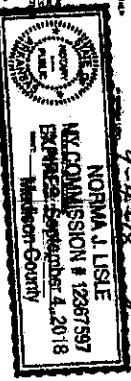
**APPROVED**  
SEP 29 2010  
WASHINGTON COUNTY PLANNING DEPT.

PROJECT #  
2010-110



WASHINGTON COUNTY PLANNING DEPT.  
WASHINGTON COUNTY PLANNING DEPT.  
WASHINGTON COUNTY PLANNING DEPT.

WA. CO. ORD. 99-32 SEC. 11-61 (C/A) THERE SHALL BE A DEED RESTRICTION WITH EACH LAND CONVEYANCE THAT NO NEW IMPROVEMENTS WILL BE CONSTRUCTED WITHIN A SUFFICIENT DISTANCE FROM THE CENTERLINE OF ANY EXISTING PUBLIC ROAD TO ACCOMMODATE FUTURE ROAD IMPROVEMENTS.



REVISIONS		
DATE	DESCRIPTION	BY

**ARA**  
118 S. COLLETT AVENUE  
LITTLE ROCK, AR 72202  
501-783-8888

**Alan Reid**  
A SURVEYOR  
118 S. COLLETT AVENUE  
LITTLE ROCK, AR 72202  
501-783-8888

DAVID & MITZI CARMON  
12862 BUSH CREEK AVENUE  
SPRINGDALE, ARKANSAS

PROPERTY LINE ADJUSTMENT

DATE	BY	SCALE

Doc ID: 01367356001 Type: REL  
Kind: SURVEY  
Recorded: 09/30/2010 at 02:53:30 PM  
Fee Amt: \$15.00 Page 1 of 1  
Washington County, AR  
Bette Stamps Circuit Clerk  
File: 2010-00028829

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Douthett and Jwila Taylor, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2016-06 (the "Repealing Ordinance 2016-01 Ordinance") was, on the 16 day of September 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 16 day of September, 2016.

Harold Douthett  
Mayor

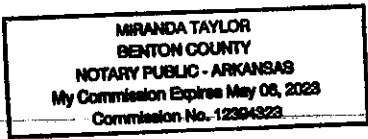
Jwila Taylor  
City Clerk

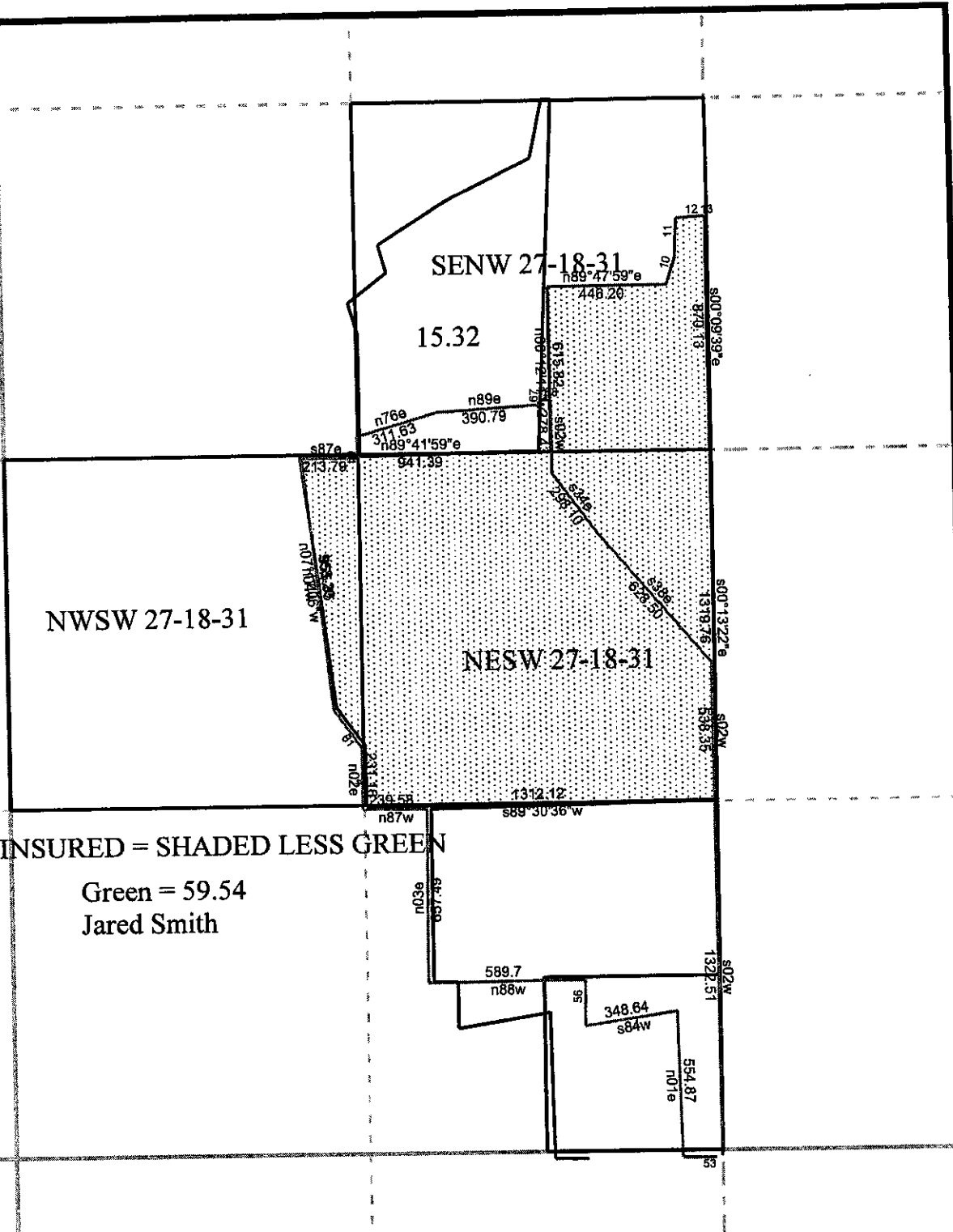
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 16 Day of September, 2016.

Miranda Taylor  
Notary Public

My Commission Expires:  
May 06, 2023





10/28/2015

Scale: 1 inch = 550 feet

File: \_\_\_\_\_

- Tract 1: 52.6184 Acres, Closure: n66.4418w 0.31 ft. (1/23167), Perimeter=7233 ft.
- Tract 2: 40.0000 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=5280 ft.
- Tract 3: 40.0000 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=5280 ft.
- Tract 4: 40.0000 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=5280 ft.
- Tract 5: 17.8898 Acres, Closure: n86.4633e 503.04 ft. (1/9), Perimeter=4342 ft.
- Tract 6: 10.0000 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=2640 ft.
- Tract 7: 59.2292 Acres, Closure: s77.1447w 21.36 ft. (1/382), Perimeter=8166 ft.
- Tract 8: 15.0878 Acres, Closure: n80.2348w 3.70 ft. (1/1020), Perimeter=3770 ft.

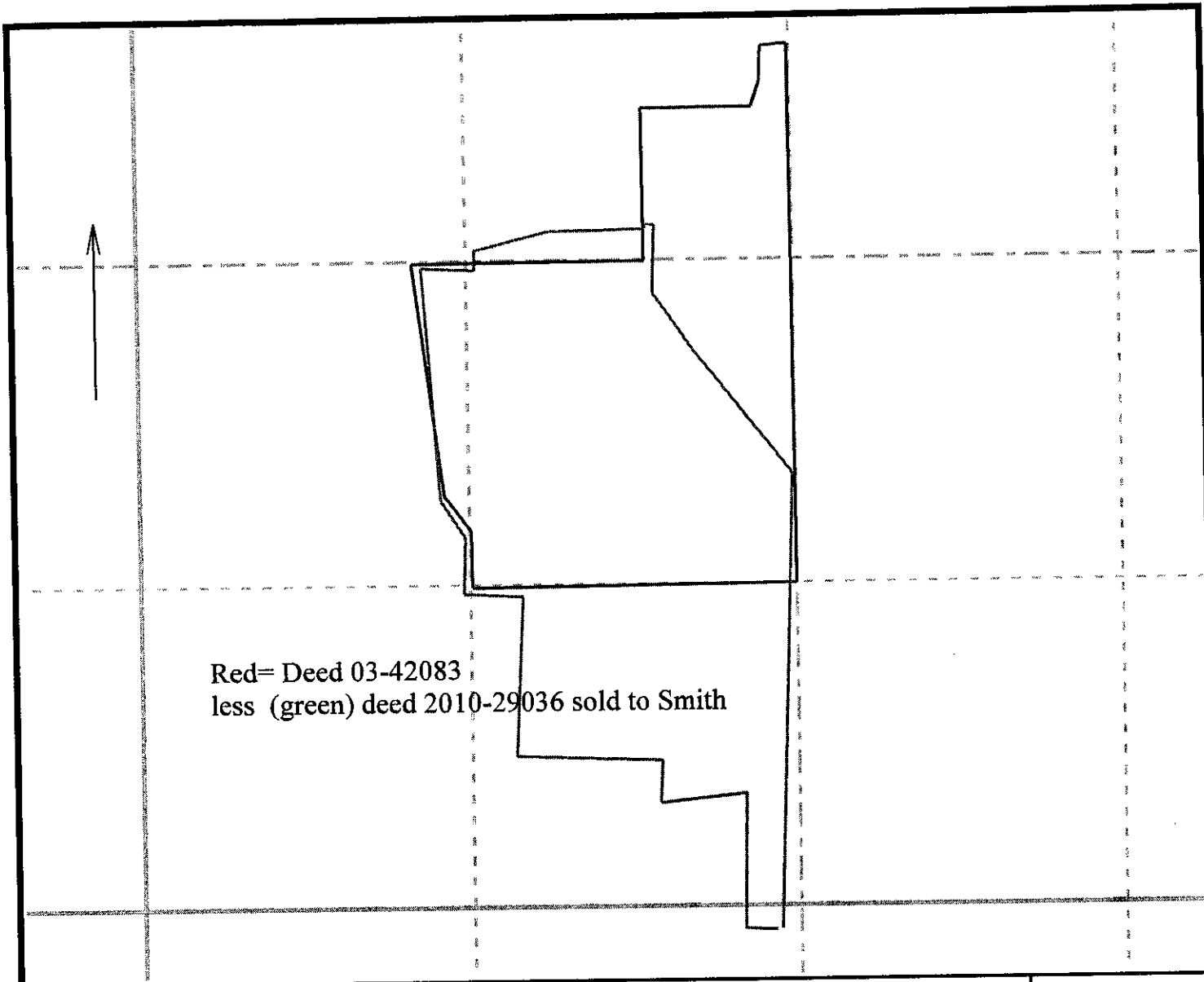
## Tract Data and Deed Calls

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Tract 02: 40.0000 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=5280 ft.  
Tract 03: 40.0000 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=5280 ft.  
Tract 04: 40.0000 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=5280 ft.  
Tract 05: 17.8898 Acres, Closure: n86.4633e 503.04 ft. (1/9), Perimeter=4342 ft.  
Tract 06: 10.0000 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=2640 ft.  
Tract 07: 59.2292 Acres, Closure: s77.1447w 21.36 ft. (1/382), Perimeter=8166 ft.  
Tract 08: 15.0878 Acres, Closure: n80.2348w 3.70 ft. (1/1020), Perimeter=3770 ft.  
Tract 08: 15.0878 Acres, Closure: n80.2348w 3.70 ft. (1/1020), Perimeter=3770 ft.

1: e0.00 n5.73 (moved)  
2: /se,ne,sw,27,18n,31w  
3: s89.3036w 1312.12  
4: n00.2223w 231  
5: n36.2243w 175.47  
6: n07.1706w 958.20  
7: n89.4159e 941.39  
8: n00.1211w 615.82  
9: n89.4759e 446.20  
10: n17.5345e 106.98  
11: n02.1424e 148.12  
12: n85.3356e 79.16  
13: s90e 28.89  
14: s00.0939e 870.13  
15: s00.1322e 1319.76  
16: @0 2  
17: /ne,ne,sw,27,18n,31w  
18: s0w 1320.00  
19: s90w 1320.00  
20: n0e 1320.00  
21: n90e 1320.00  
22: @0 3  
23: /ne,nw,sw,27,18n,31w  
24: s0w 1320.00  
25: s90w 1320.00  
26: n0e 1320.00  
27: n90e 1320.00  
28: @0 4  
29: /ne,se,nw,27,18n,31w  
30: s0w 1320.00  
31: s90w 1320.00  
32: n0e 1320.00  
33: n90e 1320.00  
34: @0 19.29a 5  
35: /se,se,sw,27,18n,31w  
36: n0e 1322.85  
37: s89w 1072.51  
38: s0w 655.89  
39: s88e 89.6  
40: s0w 171.29  
41: n81e 349.20  
42: s01e 554.63  
43: s89e 126  
44: @0 6  
45: /ne,se,se,sw,27,18n,31w  
46: s0w 660.00  
47: s90w 660.00  
48: n0e 660.00  
49: n90e 660.00  
50: @0 7  
51: e-22.93 n-28.65 (moved)  
52: /se,se,sw,27,18n,31w

## Tract Data and Deed Calls

53: n87w 125.87  
54: n01e 554.87  
55: s84w 348.64  
56: n03e 171.41  
57: n88w 589.7  
58: n03e 657.49  
59: n87w 239.58  
60: n02e 231.16  
61: n33w 175.20  
62: n04w 955.35  
63: s87e 213.79  
64: n0w 80.09  
65: n76e 311.63  
66: n89e 390.79  
67: n05e 18.30  
68: s87e 35.83  
69: s02w 278.43  
70: s34e 298.10  
71: s38e 628.50  
72: s02w 538.35  
73: s02w 1322.51  
74: @0 8  
75: e5.73 n-5.73  
76: /sw,se,nw,27,18n,31w  
77: n0e 454.40  
78: n16w 122.09  
79: n52e 184.57  
80: n15w 109.08  
81: n57e 305.98  
82: n64e 350.70  
83: n13e 223.2  
84: n89e 33.48  
85: s03w 1320  
86: s89w 666.44



Red= Deed 03-42083  
less (green) deed 2010-29036 sold to Smith

10/29/2015

Scale: 1 inch= 600 feet

File:

Tract 1: 52.6184 Acres, Closure: n66.4418w 0.31 ft. (1/23167), Perimeter=7233 ft.  
Tract 2: 59.2292 Acres, Closure: s79.3347w 21.36 ft. (1/382), Perimeter=8166 ft.

- |                         |                 |
|-------------------------|-----------------|
| 01 e0.00 n5.73          | 25 n87w 239.58  |
| 02 /se,ne,sw,27,18n,31w | 26 n02e 231.16  |
| 03 s89.3036w 1312.12    | 27 n33w 175.20  |
| 04 n00.2223w 231        | 28 n04w 955.35  |
| 05 n36.2243w 175.47     | 29 s87e 213.79  |
| 06 n07.1706w 958.20     | 30 n0w 80.09    |
| 07 n89.4159e 941.39     | 31 n76e 311.63  |
| 08 n00.1211w 615.82     | 32 n89e 390.79  |
| 09 n89.4759e 446.20     | 33 n05e 18.30   |
| 10 n17.5345e 106.98     | 34 s87e 35.83   |
| 11 n02.1424e 148.12     | 35 s02w 278.43  |
| 12 n85.3356e 79.16      | 36 s34e 298.10  |
| 13 s90e 28.89           | 37 s38e 628.50  |
| 14 s00.0939e 870.13     | 38 s02w 538.35  |
| 15 s00.1322e 1319.76    | 39 s02w 1322.51 |
| 16 @0                   |                 |
| 17 e-97.93 n-97.40      |                 |
| 18 /se,se,sw,27,18n,31w |                 |
| 19 n87w 125.87          |                 |
| 20 n01e 554.87          |                 |
| 21 s84w 348.64          |                 |
| 22 n03e 171.41          |                 |
| 23 n88w 589.7           |                 |
| 24 n03e 657.49          |                 |

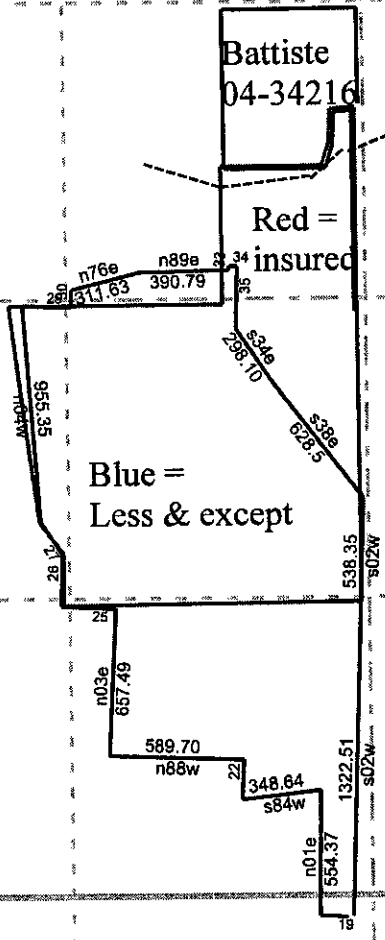


Battiste  
04-34216

approx ROW of county road

Red =  
insured

Blue =  
Less & except



2/17/2016

Scale: 1 inch= 800 feet      File:

Tract 1: 52.6104 Acres, Closure: n55.4410e 0.01 ft. (1/628558), Perimeter=7233 ft.  
Tract 2: 59.3144 Acres, Closure: s82.0317w 24.02 ft. (1/340), Perimeter=8165 ft.  
Tract 3: 4.1725 Acres (181756 Sq. Feet), Closure: s01.3740w 928.21 ft. (1/4), Perimeter=3455 ft.

## Tract Data and Deed Calls

Tract 01: 52.6104 Acres, Closure: n55.4410e 0.01 ft. (1/628558), Perimeter=7233 ft.  
Tract 02: 59.3144 Acres, Closure: s82.0317w 24.02 ft. (1/340), Perimeter=8165 ft.  
Tract 03: 4.1725 Acres (181756 Sq. Feet), Closure: s01.3740w 928.21 ft. (1/4), Perimeter=3455 ft.  
Tract 03: 4.1725 Acres (181756 Sq. Feet), Closure: s01.3740w 928.21 ft. (1/4), Perimeter=3455 ft.

1: e-33.33 n-16.67  
2: /se,ne,sw,27,18n,31w  
3: s89.3036w 1312.12  
4: n00.2223w 231  
5: n36.2243w 175.47  
6: n07.1706w 958.2  
7: n89.4159e 941.39  
8: n00.1211w 615.82  
9: n89.4749e 446.2  
10: n17.4345e 106.98  
11: n02.1424e 148.12  
12: n85.3356e 79.16  
13: s90.0000e 28.89  
14: s00.0939e 870.13  
15: s00.1322e 1319.76  
16: @0  
17: e-110.41 n-97.92 (moved)  
18: /se,se,sw,27,18n,31w  
19: n87w 125.87  
20: n01e 554.37  
21: s84w 348.64  
22: n03e 171.41  
23: n88w 589.70  
24: n03e 657.49  
25: n87w 239.58  
26: n02e 231.16  
27: n33w 175.20  
28: n04w 955.35  
29: s87e 213.79  
30: n02e 80.09  
31: n76e 311.63  
32: n89e 390.79  
33: n05e 18.30  
34: s87e 35.83  
35: s02w 278.43  
36: s34e 298.10  
37: s38e 628.5  
38: s02w 538.35  
39: s02w 1322.51  
40: @0 neighbor  
41: e-50.00 n-58.34 (moved)  
42: /se,se,nw,27,18n,31w  
43: n00.0939w 870.13  
44: n00w 28.89  
45: s85.3356w 79.16  
46: s02.1424w 148.12  
47: s17.4345w 106.98  
48: s89.4749w 446.20  
49: n00.1211w 703.86  
50: n89.4345e 593.62  
51: s00.0939e 419.05  
52: n00w 28.81  
53: s00w 30



ORDINANCE NO. 2016- 07

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS

AN ORDINANCE REZONING CERTAIN REAL PROPERTY LOCATED  
AT 602 S. LAKE ROAD FROM R-A TO RSF-2;  
DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, an Application for Rezoning has been filed with the City of Elm Springs, seeking the re-zoning of the property described therein and situated at 602 S. Lake Road, from Residential-Agricultural (R-A) to Residential Single Family – 2 Units per acre (RSF-2); and

WHEREAS, after due notice as required by law, the Elm Springs Planning Commission has, at the time and place set forth in the notice, heard all persons desiring to be heard on the question and has ascertained that the requested re-zoning is proper in all respects and should be approved; and has recommended such approval to the Elm Springs City Council; and

WHEREAS, the Elm Springs City Council has considered the matter and has determined that it is in the best interests of the citizens of Elm Springs and the City of Elm Springs for the requested re-zoning to be granted and approved.

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Elm Springs, as follows:

SECTION 1: The City of Elm Springs, Arkansas hereby changes the zone classification for said property situated at 602 S. Lake Road from Residential-Agricultural (R-A) to Residential Single Family – 2 Units per acre (RSF-2), said property being more particularly described as follows:

See Exhibit "A" Attached hereto

SECTION 2. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this Ordinance is declared invalid for any reason, then that part shall be considered severed, and the remaining part of this Ordinance shall continue in full force and effect.

SECTION 3. The official zoning map of the City of Elm Springs, Arkansas is hereby amended to reflect the zoning change provided in Section 1 hereof.

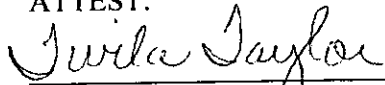
SECTION 4. EMERGENCY. Factors are in place regarding the property at issue herein to make finalization of this Ordinance urgent. Accordingly, the immediate effectiveness of the provisions of this Ordinance is necessary and proper for the preservation of the peace, health,

safety and welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 15 day of September, 2016.

  
Harold Douthit, Mayor

ATTEST:

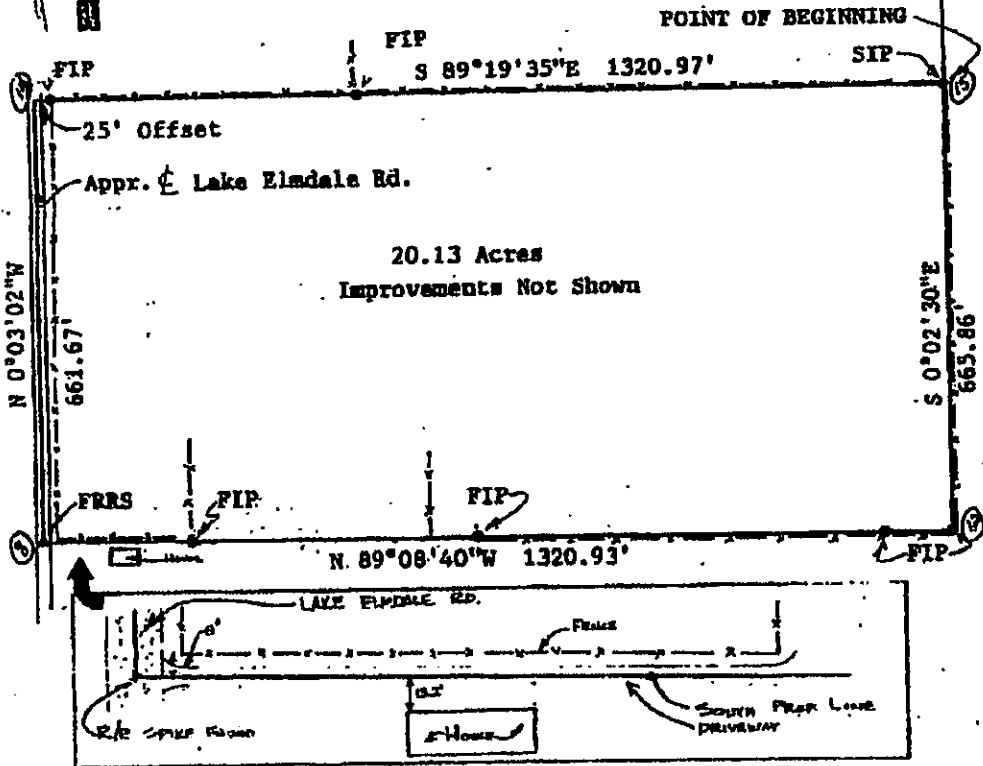
  
Twila Taylor, City Clerk



**LEGEND**

- - Iron Pin Found (FIP)
- - Iron Pin Set (SIP)
- ▲ - Railroad Spike Found (FRRS)
- Fence Line

Northeast Corner  
SW $\frac{1}{4}$ , SW $\frac{1}{4}$   
29-18-30

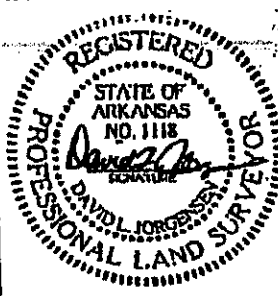


**LEGAL DESCRIPTION:** The S $\frac{1}{2}$  of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 29, T18N, R30W of the Fifth Principal Meridian in Washington County, Arkansas being more particularly described as follows, to-wit; Commencing at the Northeast Corner of said SW $\frac{1}{4}$ , SW $\frac{1}{4}$  thence S0°11'50"E 665.50 Feet to the POINT OF BEGINNING, thence S0°02'30"E 665.86 Feet; thence N 89°08'40"W 1320.93 Feet, thence N 0°03'02"W 661.67 Feet, thence S 89°19'35"E 1320.97 Feet to the POINT OF BEGINNING; Containing 20.13 Acres more or less subject to R/W and easements of record.

THIS IS TO CERTIFY THAT THE ABOVE SURVEY WAS PERFORMED UNDER MY SUPERVISION AND ALL CORNERS WERE SET AS SHOWN ON THE ABOVE PLAT AND TO THE BEST OF MY KNOWLEDGE ARE CORRECT.

*David L. Jorgensen*  
David L. Jorgensen, ARLS 1118

*9/30/87*  
DATE



**JORGENSEN & ASSOCIATES**  
CONSULTING ENGINEERS  
2863 OLD MISSOURI ROAD • FAYETTEVILLE AR 72703 • PHONE 501/442-9127

SCALE: 1"=200'	JOB NO: 87198	CHECKED BY:	DRAWN BY: DLJ
DATE: 9-23-87	DESIGNED BY:		
Property survey for J.D. Barnes			1
S $\frac{1}{2}$ , SW $\frac{1}{4}$ , SW $\frac{1}{4}$ 29-18-30			1

**PROOF OF POSTING OF ORDINANCE**

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Dethlefs and Twila Taylor do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2016-017 (the "Rezone 602 E. Lake Rd Ordinance") was, on the 16 day of September, 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 16 day of September, 2016.

Harold Dethlefs  
Mayor

Twila Taylor  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 16 Day of September, 2016.

Miranda Taylor  
Notary Public

My Commission Expires:

May 08, 2023



ORDINANCE NO. 2016- 08

**CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS**

**AN ORDINANCE AMENDING CERTAIN PERMIT AND INSPECTION FEES SET FORTH IN THE ZONING ORDINANCE OF THE CITY OF ELM SPRINGS; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.**

WHEREAS, the Elm Springs Planning Commission, after hearing testimony and comments from the public, and studying the application of the zoning ordinance, has determined that portions of the regulations regarding permit and inspection fees as set forth in the Elm Springs Zoning Ordinance, should be amended in order to assist in the fair, consistent and efficient application of the zoning ordinance and to preserve the orderly growth and desirable living character of the City of Elm Springs, Arkansas; and

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and agrees that these changes should be implemented.

**NOW THEREFORE, BE IT ORDAINED:**

SECTION 1. The Elm Springs zoning ordinance, Chapter 16 is amended in part to reflect the following fees:

(B)(9)(a)(i) c. - *Re-inspection*. For each re-inspection for correction of violations and/or if installation is not ready for requested inspections the fee shall be \$50.00.

(B)(9)(c)(i) c. - *Electrical permit fees*. \$0.50 per outlet, and \$10.00 per inspection with electrical wiring in concrete.

(B)(9)(c)(i) e. - *Electrical permit fees*. A minimum fee for any electrical permit shall be \$50.00.

(B)(9)(e) - *Mechanical permit fees*. Fees for a mechanical permit shall be paid to the city as follows:

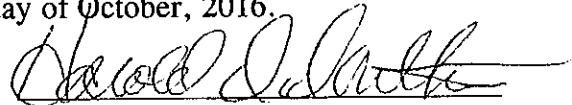
Minimum permit fee for the first unit	\$40.00
Additional units greater than 1/2 horse power	\$15.00
Fractional horse power mechanical exhaust	\$10.00
Gas vent per unit	\$15.00

SECTION 2. This Ordinance amends only those sections or portions of sections as set forth herein, and does not affect any other section or regulation of the City of Elm Springs Zoning Ordinance, unless any such section specifically conflicts with this amendment, in which case this amendment shall control.

SECTION 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this Ordinance is declared invalid for any reason, then that part shall be considered severed, and the remaining part of this Ordinance shall continue in full force and effect.

SECTION 4. EMERGENCY. Factors are present including immediate development and inspection needs to make finalization of this Ordinance urgent. Accordingly, the immediate effectiveness of the provisions of this Ordinance is necessary and proper for the preservation of the peace, health, safety, and welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 27 day of October, 2016.



Harold Douthit, Mayor

ATTEST:

  
Twila Taylor, City Clerk



**ORDINANCE NO. 2016-10**

**CITY OF ELM SPRINGS, ARKANSAS**

**AN ORDINANCE RE-ZONING CERTAIN LANDS WITHIN THE CITY  
OF ELM SPRINGS KNOWN AS PARCEL 750-00817-000;  
DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.**

WHEREAS, it has come to the attention of the City of Elm Springs that there is a need to change the zoning on the following described property from RSF-1 [Front] and RA [Back] to Commercial.

NOW, therefore, be it ordained by the City Council of the City of Elm Springs, Arkansas;

Section 1: The City of Elm Springs's Zoning Ordinance and Zoning Map are hereby amended with respect to the following described property:

Parcel 750-00817-000, described as:

A part of the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section 29, Township 18 North, Range 30 West of the 5<sup>th</sup> Principal Meridian, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of the NE¼ of the SW¼ of said Section 29, said point being a found railroad spike; thence along the East line of said NE¼ of the SW¼, S02°23'29"W a distance of 355.44 feet to the point of beginning; thence continuing along said East line, S02°23'29"W a distance of 91.88 feet to a point; thence leaving said East line, N88°02'48"W a distance of 306.84 feet to a set iron pin with cap, "PLS 1156"; thence S02°02'56"W a distance of 47.60 feet to a set iron pin with cap "PLS 1156"; thence S87°57'04"E a distance of 24.39 feet to a set iron pin with cap, "PLS 1156"; thence S03°13'55"W a distance of 148.59 feet to a set iron pin with cap "PLS 1156"; thence N86°26'03"W a distance of 377.25 feet to a set iron pin with cap "PLS 1156"; thence N02°24'00"E a distance of 292.16 feet to a found ½" rebar; thence S86°36'03"E a distance of 661.54 feet to the point of beginning. Said tract or parcel of land containing 3.14 acres (136,628 sq. ft), more or less, and subject to all rights of way, easements and restrictions covenants of record or fact (hereinafter collectively the "Property").

Section 2: The zoning of the Property is hereby changed and amended from its character as RSF-1 and RA to Commercial zoning.

Section 3: That the Official Zoning Map of the City of Elm Springs, as well its Zoning Ordinances are hereby amended accordingly to reflect the change in zoning of the Property.

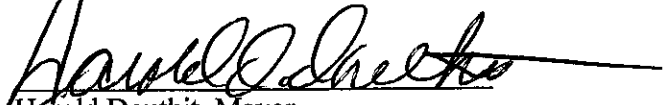
Section 4: This Ordinance supersedes and replaces those portions of any conflicting prior Ordinances.

Section 5. Emergency. Rezoning is required in order to allow development of the Property to proceed. Accordingly, the immediate operation of the provisions of this Ordinance is therefore necessary and proper for the preservation of the peace, health, safety, and welfare of the residents



of Elm Springs, Arkansas; and, therefore, an emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED and APPROVED this 22<sup>nd</sup> day of December, 2016.

  
Harold Douthit, Mayor

Attest:

  
Twila Taylor, City Clerk

ORDINANCE NO. 2017 - 01

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING SECTION 5.02(A)(1) OF THE ZONING  
ORDINANCE OF THE CITY OF ELM SPRINGS; DECLARING AN  
EMERGENCY AND FOR OTHER PURPOSES.**

WHEREAS, the Elm Springs Planning Commission, after studying the application of the zoning ordinance, has determined that a portion of the Zoning Ordinance regarding Accessory Structures and Uses, should be amended in order to assist in the fair, consistent and efficient application of the zoning ordinance and to preserve the orderly growth and desirable living character of the City of Elm Springs, Arkansas; and

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and agrees that these changes should be implemented.

**NOW THEREFORE, BE IT ORDAINED:**

SECTION 1. The Elm Springs Zoning Ordinance, Chapter 5.02(A)(1) is amended to provide as follows:

5.02 (A)(1) *When erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure, except in the R-A zoning district, UNLESS such accessory structure has been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.

SECTION 2. This Ordinance amends only those sections or portions of sections as set forth herein, and does not affect any other section or regulation of the City of Elm Springs Zoning Ordinance, unless any such section specifically conflicts with this amendment, in which case this amendment shall control.

SECTION 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this Ordinance is declared invalid for any reason, then that part shall be considered severed, and the remaining part of this Ordinance shall continue in full force and effect.

SECTION 4. EMERGENCY. Factors are present including immediate construction needs that make finalization of this Ordinance urgent. Accordingly, the immediate effectiveness of the provisions of this Ordinance is necessary and proper for the preservation of the peace, health, safety, and welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is

declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 26<sup>th</sup> day of January, 2017.

ATTEST:

Twila Taylor  
Twila Taylor, City Clerk

Harold Douthit  
Harold Douthit, Mayor

ORDINANCE NO. 2017 - 01

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING SECTION 5.02(A)(1) OF THE ZONING  
ORDINANCE OF THE CITY OF ELM SPRINGS; DECLARING AN  
EMERGENCY AND FOR OTHER PURPOSES.**

WHEREAS, the Elm Springs Planning Commission, after studying the application of the zoning ordinance, has determined that a portion of the Zoning Ordinance regarding Accessory Structures and Uses, should be amended in order to assist in the fair, consistent and efficient application of the zoning ordinance and to preserve the orderly growth and desirable living character of the City of Elm Springs, Arkansas; and

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and agrees that these changes should be implemented.

**NOW THEREFORE, BE IT ORDAINED:**

SECTION 1. The Elm Springs Zoning Ordinance, Chapter 5.02(A)(1) is amended to provide as follows:

5.02 (A)(1) *When erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure, except in the R-A zoning district, UNLESS such accessory structure has been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.

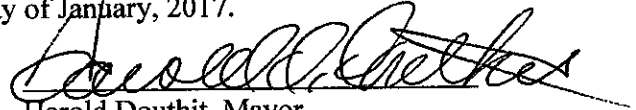
SECTION 2. This Ordinance amends only those sections or portions of sections as set forth herein, and does not affect any other section or regulation of the City of Elm Springs Zoning Ordinance, unless any such section specifically conflicts with this amendment, in which case this amendment shall control.

SECTION 3. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this Ordinance is declared invalid for any reason, then that part shall be considered severed, and the remaining part of this Ordinance shall continue in full force and effect.

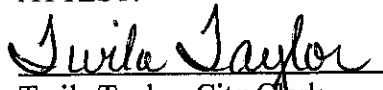
SECTION 4. EMERGENCY. Factors are present including immediate construction needs that make finalization of this Ordinance urgent. Accordingly, the immediate effectiveness of the provisions of this Ordinance is necessary and proper for the preservation of the peace, health, safety, and welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is

declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 26<sup>th</sup> day of January, 2017.

  
Harold Douthit, Mayor

ATTEST:

  
Twila Taylor, City Clerk

ORDINANCE NO. 2017 - 02

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING CERTAIN USE PROVISIONS OF THE  
ZONING REGULATIONS OF THE CITY OF ELM SPRINGS;  
DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.**

WHEREAS, the Elm Springs Planning Commission, after studying the application of its Zoning Ordinance, has determined that a portion of the Zoning Ordinance regarding neighborhood businesses should be amended in order to assist in the fair, consistent and efficient application of the Zoning Ordinance and to preserve the orderly growth and desirable living character of the City of Elm Springs, Arkansas; and

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and agrees that these changes should be implemented.

**NOW THEREFORE, BE IT ORDAINED:**

SECTION 1. The Elm Springs Zoning Ordinance Chapter 2 is amended to include the following:

Chapter 2 – Zoning Regulations

Chapter 2.02 (B)(2) – Conditional Uses

*Add* – Unit 12 – Neighborhood Business

Chapter 2.03 (B) – Permitted Uses

*Add* – Unit 12 – Neighborhood Business

Chapter 2.04 (C) – Permitted Uses

*Add* – Unit 12 – Neighborhood Business

SECTION 2. The Elm Springs Zoning Ordinance Chapter 3 is amended to include the following:

Chapter 3 – Use Units

A. Chapter 3.01 Establishment/Listing

*Amend – Unit 12 to Neighborhood Business*

B. Chapter 3.01 (L) –

*Amend to provide as follows:*

**(L) Unit 12. Neighborhood business.\***

(1) *Description.* Unit 12 consists of small-scale businesses operating from a place of residence and has limited impact to the surrounding neighborhood. These uses shall be subject to the regulations in Chapter 5.

(2) *Included uses.*

- |   |
|---|
| <ul style="list-style-type: none"><li>•Lawn Care</li><li>•Air conditioning</li><li>•Building construction</li><li>•Carpentry</li><li>•Concrete</li><li>•Day Care Facilities</li><li>•Decorating</li><li>•Electrical</li><li>•Furnace cleaning</li><li>•Heating</li><li>•Masonry</li><li>•Painting</li><li>•Paper Hanging</li><li>•Plastering</li><li>•Plumbing</li><li>•Professional Offices</li><li>•Roofing</li><li>•Sheet metal</li><li>•Stonework</li><li>•Tile setting</li></ul> |
|---|

SECTION 3. The Elm Springs Zoning Ordinance Chapter 5 is amended to provide the following:

**Chapter 5 – Supplementary Zoning Regulations**

*Amend – 5.16 Neighborhood Business*

A. *Purpose.* These regulations are intended to mitigate the potential adverse impacts associated with businesses within residential areas by allowing businesses that are compatible with adjoining and surrounding residential uses. The following standards shall apply:

- a. Enhance and regulate the appearance of neighborhood commercial uses
- b. Protect adjoining properties from the potential adverse impacts associated with business uses adjacent to residences such as traffic, noise, appearance, lighting, drainage, and effect on property values

- c. Provide areas for off-street parking that will be appropriate in size, location and scale within residential areas
- B. *Similar Uses Allowed.* When a use is not specifically listed as a permitted use in Use Unit 12 (Neighborhood Business), the use may be permitted if it is determined by the Planning Commission that the use is similar to other uses listed. In determining “similarity,” the Planning Commission shall make all of the following findings:
- a. The proposed use meets the purpose of this section and the goals and policies of the Future Land Use Plan.
  - b. The proposed use shall be similar to the uses listed above considering use intensity and characteristics.
- C. *Conditions for Approval.* The uses listed may be allowed as a permitted use and shall meet the following conditions.
- a. The proposed use shall not adversely affect local traffic conditions on the adjoining streets.
  - b. New parking areas or lots, utility equipment and trash enclosures shall be designed to have minimal visual impact to adjacent property owners and to the street. Screening of these elements shall be accomplished with plantings, walls, architectural elements, and/or fencing.
  - c. One wall sign shall be allowed with a maximum area of eight square feet. The color of the sign shall be compatible with the colors of the structure, and only indirect external lighting is permitted.
  - d. Hours of operation shall be limited to 6am to 9pm unless otherwise approved by the Planning Commission.
  - e. All new or enlarged structures shall comply with the zoning requirements of the underlying district.
- D. *Design Review. (if building is proposed)*
- a. a site plan drawn to scale showing location of parking, building footprint, all other improvements
  - b. color elevation drawings of all sides of the structure, indicating the type of materials to be used on the exterior of the building, and proposed sign
  - c. landscape plan showing the location of all proposed landscaping, size and species of plant material

SECTION 4. This Ordinance amends only those sections or portions of sections as set forth herein, and does not affect any other section or regulation of the City of Elm Springs Zoning Ordinance, unless any such section specifically conflicts with this amendment, in which case this amendment shall control.

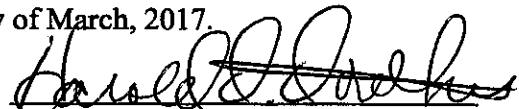
SECTION 5. All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this Ordinance is declared invalid for any reason, then that part shall be considered severed, and the remaining part of this Ordinance shall continue in



full force and effect.

**SECTION 6. EMERGENCY.** Factors are present including proposed business usage that makes finalization of this Ordinance urgent. Accordingly, the immediate effectiveness of the provisions of this Ordinance is necessary and proper for the preservation of the peace, health, safety and welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 23 day of March, 2017.

  
Harold Douthit, Mayor

ATTEST:

  
Twila Taylor, City Clerk

**ORDINANCE NO. 2017-05**

**CITY OF ELM SPRINGS, ARKANSAS**

**AN ORDINANCE RE-ZONING CERTAIN LANDS WITHIN THE CITY  
OF ELM SPRINGS LOCATED ON GUM STREET;  
DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.**

WHEREAS, it has come to the attention of the City of Elm Springs that there is a need to change the zoning on the following described property from C-1 Commercial to RSF-4.

NOW, therefore, be it ordained by the City Council of the City of Elm Springs, Arkansas;

Section 1: The City of Elm Springs's Zoning Ordinance and Zoning Map are hereby amended with respect to the following described property:

The land in question is situated on Gum Street, and is described as:

209 Gum Street - Part of the E $\frac{1}{2}$  of SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 25, Township 18 North, Range 31 West, Washington County, Arkansas, commencing at the NE Corner of said 20 acre tract; thence West 390 feet; thence South 142 feet to the point of beginning; thence East 100 feet; thence 106 feet; thence West 100 feet; thence North 106 feet to the point of beginning;

244 Gum Street - Part of the E $\frac{1}{2}$  of SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 25, Township 18 North, Range 31 West, Washington County, Arkansas, commencing at a railroad spike at the NE Corner of said 20 acre tract; thence West 390 feet; thence South 0°05'19" E 248 feet to the point of beginning; thence East 100 feet; thence South 0°05'19" E 100 feet; thence West 100 feet; thence North 0°05'19" West 100 feet to the point of beginning;

255 Gum Street - Part of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 25, Township 18 North, Range 31 West, Washington County, Arkansas, commencing at a point 416.9 feet West and South 11°27'40" West 171.56 feet from the NE corner of said SW $\frac{1}{4}$  of the NE $\frac{1}{4}$ , thence South 74°36'30" East 50.29 feet to the Centerline of Gum Street, thence along said Centerline, South 00°50'1" West 166.54'; thence leaving said Centerline West 82.51 feet; thence North 11°27'40" E 183.52 feet to the point of beginning (hereinafter collectively the "Property").

Section 2: The zoning of the Property is hereby changed and amended from its character as C-1 to RSF4 zoning.

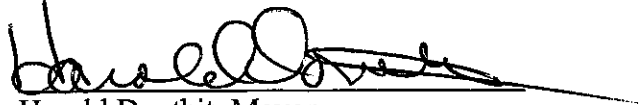
Section 3: That the Official Zoning Map of the City of Elm Springs, as well its Zoning Ordinance are hereby amended accordingly to reflect the change in zoning of the Property.

Section 4: This Ordinance supersedes and replaces those portions of any conflicting prior Ordinances.

Section 5. Emergency. Rezoning is required in order to allow financing and other matters related to the Property to proceed. Accordingly, the immediate operation of the provisions of this Ordinance is therefore necessary and proper for the preservation of the peace, health, safety, and

welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED and APPROVED this 24<sup>th</sup> day of August, 2017.

  
Harold Douthit, Mayor

Attest:

  
Twila Taylor, City Clerk

**ORDINANCE NO. 2017 - 06**

**CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS**

**AN ORDINANCE AMENDING CERTAIN USE PROVISIONS OF THE SUPPLEMENTARY ZONING REGULATIONS OF THE CITY OF ELM SPRINGS DEVELOPMENT CODE; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.**

WHEREAS, the Elm Springs Planning Commission, after studying the application of its Development Code, has determined that portions of Chapter 5 of the City's Development Code should be amended in order to assist in the fair, consistent and efficient application of the Development Code and to preserve the orderly growth and desirable living character of the City of Elm Springs, Arkansas; and

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and agrees that these changes should be implemented.

**NOW THEREFORE, BE IT ORDAINED:**

**Chapter 5 – Supplementary Zoning Regulations**

**The following sections and/or subsections are amended as hereinafter set forth:**

**Section 1:**        *Amend Chapter 5.02 Accessory Structures and Uses, to provide as follows:*

Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 1 through 5, and to the following general conditions:

- (A)    Accessory structures.
  - (1)    *When erected.* For the R-A zoning district, there are no restrictions on when the accessory structure can be erected. For all other residential zoning districts, no accessory structure shall be erected on any property prior to the construction of the principal structure, UNLESS such accessory structure has been approved by the Planning Commission.
  - (2)    *Where erected.* For the R-A zoning district, the accessory structure can be located anywhere within the buildable area of the property within that zoning district. For all other residential zoning districts, the accessory structure shall be located to the rear of the principal structure, except as approved by the Planning Commission.

- (3) *Size of accessory structure.* For the R-A zoning district there is no size limit for the area of an accessory structure. The structure will still be subject to the height requirements as defined in this chapter and in other sections of this code. For all other residential zoning districts, an accessory structure shall be 50% or less of the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with Chapter 4, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties.
  - (i) *Exceptions.* If the principal structure is 1200 sf in size or less, then the maximum size of accessory structure is 600 sf unless a conditional use permit is obtained from the Planning Commission.
- (4) *Height.* For the R-A zoning district, the height of an accessory structure shall not exceed 40'. For all other residential zoning districts, No accessory structure shall exceed the lesser of the existing building peak height or the maximum height allowed in the Zoning District it occupies unless approved by the Planning Commission.
- (5) *Separation.* Minimum separation from the principal structure shall be 15 feet as measured from the outer edge of any eaves, porch covers or overhangs on both buildings.
- (6) *Planning Commission Review.* Any accessory structure exceeding 600 square feet in floor area shall be subject to review by the Planning Commission. The Planning Commission shall review the location, size, structural and exterior materials, and appearance and shall determine if the proposed building is appropriate and compatible considering, but not limited to the following: the visibility of the proposed structure; the compatibility with surrounding uses and structures; and the size relative to the lot and open space on which it will be located.
- (7) Prefabricated portable buildings and car ports shall be allowed if approved by the Building Official as structurally sound and is anchored to permanent footings or slabs. These buildings shall meet the requirements of this ordinance and the building setbacks for the zoning district it is constructed in.
- (8) All accessory structures shall be made and maintained structurally sound and weatherproof. They shall be made with materials compatible and

harmonious with existing buildings and presenting an appearance aesthetically consistent with its surroundings.

- (9) The accessory structures shall not be used as a residence, bedroom, or living quarters unless allowed under Chapter 5.15.
- (10) Open sheds and lean-tos shall be permitted, provided the open side is not visible from the street Right-of-Way.

**Section 2:** *Amend portions of Chapter 5.04 Animals and Fowl, to provide as follows:*

- (C)(2) There shall be no outside slaughtering of fowl.
- (C)(3) All fowl must be kept in a secure, fenced enclosure constructed with a minimum area of 100 square feet. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area.
- (C)(7) **Roosters shall not be allowed in any residential zoning districts other than R-A.**

**Section 3:** *Amend Chapter 5.15 Accessory Dwelling Units (ADU), to provide as follows:*

(A) *Purpose.* The purpose of the accessory dwelling unit ordinance is to authorize accessory dwelling units in certain zoning districts on lots already developed or that will be developed with single family dwellings.

(B) *Intent.* Planning Commission shall evaluate the following criteria for the review and approval of an accessory dwelling unit application:

- (1) The property shall have infrastructure (water, sewer, gas, electric, etc.) that meets City standards to serve the accessory dwelling unit.
- (2) A two-story accessory dwelling unit should generally limit the major access stairs, decks, entry doors, and major windows to the walls facing the principal dwelling, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard should be minimized. The design of the accessory unit should relate to the design of the principal residence and not visually dominate it or the surrounding properties.

(C) *Permitted Zoning Districts:* Accessory dwelling units shall be exempt from the density requirements of the underlying zoning district and may be permitted on lots in the following Zoning districts:

- (1) R-A Residential Agricultural
- (2) RSF - 1 Residential Single Family - One Unit per Acre
- (3) RSF - 2 Residential Single Family – Two Units per Acre

(D) *Design Review and Approval.* All accessory dwelling units shall meet the following standards for approval by the Planning Commission. Prior to approval of an accessory dwelling unit, the Planning Commission shall find that:

- (1) *Maximum Square Feet and Number of Bedrooms.* The accessory dwelling unit shall not be greater than 1500 square feet of habitable space. Detached accessory dwelling units located above garage space shall be permitted so long as they meet the height requirement herein.
- (2) *Parking.* A minimum of one parking space shall be provided on-site for an accessory dwelling unit. Required parking for the accessory dwelling unit is in addition to the required parking for the principal dwelling unit.
- (3) *Maximum Number of Accessory Dwelling Units per Lot.* A maximum of one accessory dwelling unit shall be permitted for each lot.
- (4) *Maximum Occupancy of the Accessory Dwelling Unit.* A maximum of one family unit shall reside in an accessory dwelling unit.

(E) *Planning Commission Approval.* An applicant may request approval from the Planning Commission of a variance from the maximum requirements for size (square feet), height, and materials for an accessory dwelling unit, where unique circumstances exist and the effect will not adversely affect adjoining or neighboring property owners.

(F) *Existing Detached (Accessory) Dwelling Units.*

- (1) *Nonconforming Units.* Existing detached dwelling units that were not approved by the Planning Commission shall be considered nonconforming.

An application for approval may be made to convert an existing nonconforming detached accessory dwelling unit to a conforming legal detached accessory dwelling unit, where the existing unit can meet the requirements herein. Where an existing nonconforming accessory dwelling unit exists as of the date of the adoption of this ordinance that cannot meet the requirements herein, the applicant may apply for a variance of the requirements stated.

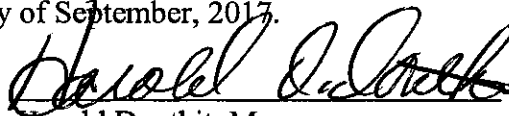
- (G) *Non-Conforming Structures.* Non-conforming structures may not be converted into an accessory dwelling unit unless a variance has been granted by the Board of Adjustment.
- (H) *Violation.* Violation of the requirements herein shall be prosecuted to the maximum extent of the law.

**SECTION 4.** This Ordinance amends only those sections or portions of sections as set forth herein, and does not affect any other section or regulation of the City of Elm Springs Development Code, unless any such section specifically conflicts with this amendment, in which case this amendment shall control.

**SECTION 5.** All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this Ordinance is declared invalid for any reason, then that part shall be considered severed, and the remaining part of this Ordinance shall continue in full force and effect.

**SECTION 6. EMERGENCY.** Factors are present including proposed residential use issues that make finalization of this Ordinance urgent. Accordingly, the immediate effectiveness of the provisions of this Ordinance is necessary and proper for the preservation of the peace, health, safety and welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 28 day of September, 2017.

  
Harold Douthit, Mayor

ATTEST:

  
Twila Taylor, Recorder



ORDINANCE NO. 2018 - 61

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING CERTAIN USE PROVISIONS OF THE SUPPLEMENTARY ZONING REGULATIONS OF THE CITY OF ELM SPRINGS DEVELOPMENT CODE; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.**

WHEREAS, the Elm Springs Planning Commission, after studying the application of its Development Code, has determined that portions of Chapter 5 of the City's Development Code should be amended in order to assist in the fair, consistent and efficient application of the Development Code and to preserve the orderly growth and desirable living character of the City of Elm Springs, Arkansas; and

WHEREAS, the City Council for the City of Elm Springs has heard the recommendations of the Planning Commission and agrees that these changes should be implemented.

**NOW THEREFORE, BE IT ORDAINED:**

**Chapter 5 – Supplementary Zoning Regulations**

**The following sections and/or subsections are amended as hereinafter set forth:**

**Section 1:** *Amend Chapter 5, Supplementary Zoning Regulations, to add Section 5.10(A)(5) to such Code, to provide as follows:*

(5) Should a residential structure within any zoning district be destroyed by any means and rebuilding is not commenced within one (1) year from the date of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Ordinance.

**Section 2:** This Ordinance amends only those sections or portions of sections as set forth herein, and does not affect any other section or regulation of the City of Elm Springs Development Code, unless any such section specifically conflicts with this amendment, in which case this amendment shall control.

**Section 3:** All previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this Ordinance is declared invalid for any reason, then that part shall be considered severed, and the remaining part of this Ordinance shall continue in full force and effect.


**Section 4: EMERGENCY.** Factors are present including the need for continued orderly planning in the City that make finalization of this Ordinance urgent. Accordingly, the immediate

effectiveness of the provisions of this Ordinance is necessary and proper for the preservation of the peace, health, safety and welfare of the residents of Elm Springs, Arkansas; and, therefore, an emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 25<sup>th</sup> day of January, 2018.

ATTEST:

  
Twila Taylor, Recorder

  
Harold Douthit, Mayor