

City of Eureka Springs Planning Commission
APPLICATION FOR REZONING OF PROPERTY

Name of Applicant _____
Address of Applicant _____
Phone _____ Email _____
Name of Property Owner if different than Applicant _____
Property Owner Address _____
Address of Property to be Re-zoned _____
Current use of property _____ Current Zone _____
Proposed use _____ Proposed Zone _____
Reason for rezoning request _____

At the time of filing this application, the following exhibits must be provided to the Planning Commission staff:

- _____ 1. Completed application with non-refundable **\$100.00 fee**
- _____ 2. Name, address, telephone number of the record title holder of the property; legal description of property, provided by a copy of the warranty deed.
- _____ 3. Names, addresses, telephone numbers of all intended grantees, if property is subject to contract sale or title is to be otherwise conveyed.
- _____ 4. Layman's description of the property with zoning classification.
- _____ 5. The zoning classification requested, a statement of the reason for the zoning change, intended use of property, and why zoning change will not conflict with surrounding land use.
- _____ 6. A scaled drawing of the property showing lot lines, zoning district, surrounding zoning, immediately adjoining property owners' names.
- _____ 7. A list of names and current addresses of all owners within 200 feet of the property, including zoning districts.
- _____ 8. Any other material or information relevant to the application. The city may request such drawings and other documents as may be helpful to the city's review of the application.
- _____ 9. Information submitted must be signed by the record title owner of the property, or his or her agent identified and designated in writing by the property owner.

Exhibits to be provided before or during the public hearing:

- _____ 1. Proof of publication of the public notice at least 30 days before hearing.
- _____ 2. One copy of notification letter sent to surrounding property owners.
- _____ 3. Return receipt cards as proof of notification of surrounding property owners at least 10 days prior to public hearing.

I certify that I have read and understand Sections 14.08.07 Sections A-I of the Eureka Springs Municipal Code (attached) which apply to the application for which I am seeking approval. I further certify that all of the information furnished is correct to the best of my knowledge.

Signature of owner if other than applicant

Applicant's signature

Date

Planning Commission Report on Rezoning Request

Public Hearing Date _____
The Planning Commission of the City of Eureka Springs met in _____ regular _____ special session on _____ to review the above application for rezoning. The application was _____ approved _____ denied with _____ ayes, _____ nays and _____ abstentions.
Comments and conditions: _____

Reason for denial: _____

Planning Commission Secretary

Planning Commission Chairman

Date

SAMPLE LETTER OF NOTIFICATION

Application for Rezoning of Property

Send Certified Registered Return Receipt to adjoining property owners within 200 feet at least 15 days prior to the Public Hearing. Turn in both parts of receipts to Planning Commission staff.

(Date) _____

TO: (Name) _____

(Address) _____

(City, State Zip Code) _____

Dear _____,

This letter is to inform you that _____ has purchased/owns the property at _____ in Eureka Springs, Arkansas.

I/We have applied to the Planning Commission or Board of Zoning Adjustment for a (type of variance) _____ variance at (street address or property location) _____.

If you wish to make comments in support or protest of this project, you may submit them in writing to: The Board of Zoning Adjustment, City Hall, 44 S. Main St., Eureka Springs, AR 72632 and/or attend the public hearing at 6 p.m. on _____ in the Western District Carroll County Courthouse, 44 S. Main St., Eureka Springs, AR.

Sincerely,

(Your name)

SAMPLE PUBLIC NOTICE

For Rezoning of Property

Place as a Legal Notice in Carroll County News to run at least 8 days prior to meeting. Return Affidavit/Proof of Publication to Planning Commission staff. Applicant must pay for publication.

Public Notice

An application has been filed by _____ to rezone the property at _____ (street address or property location) from _____ (current zone to new zone).

A public hearing will be held at 6 p.m. _____ in the Western District Carroll County Courthouse, 44 S. Main St., by the Eureka Springs Planning Commission. Comments on the application will be heard or read aloud.

CITY OF EUREKA SPRINGS MUNICIPAL CODE 2007

CHAPTER 14.08 ZONING DISTRICTS

14.08.07 Rezonings

A. Property owners may initiate changes in the zoning district boundaries for property they own. The Planning Commission and the City Council, its agents, boards, or officers may propose changes to zoning district boundaries or any other provision of this chapter whenever public welfare necessitates.

All rezonings shall follow the procedures of this section.

1. Any party desiring a change in zoning district boundaries shall pay an application fee as determined by the city council. The fee shall be paid to the city, and shall cover the cost of public notices and other expenses.

2. Any party desiring a change in zoning district boundaries shall submit an application to the city providing the following:

1. The name, address and telephone number of the record title holder of the property, the legal description of the property, provided by a copy of the warranty deed;
2. The names, addresses and telephone numbers of all intended grantees, if the property is subject to contract sale or title is to be otherwise conveyed;
3. A layman's description of the property;
4. The zoning classification requested for the property;
5. A brief statement of the reason for the zoning change;
6. The names, current addresses and zoning districts of adjacent property owners (all within 200 feet of the property in every direction) including those across streets or alleys from the property in question;
7. A statement explaining the intended use and explaining why the zoning change will not conflict with surrounding land use;
8. A scaled drawing of the property to be rezoned showing accurate lot lines, surrounding zoning, immediately adjacent property owners' names and a north arrow;
9. Any other material or information relevant to the application. The city may request such drawings and other documents as may be helpful to the city's review of the application;
10. Information submitted must be signed by the record title owner of the property, or his or her agent identified and designated in writing by the property owner.

B. When the City Council desires to initiate rezonings of land within the city boundaries, such proposals shall be referred to the Planning Commission for study and recommendations. If the City Council chooses to proceed with the rezoning, the following sections of this chapter shall be followed by the city which shall be considered the applicant.

C. Upon receipt of a completed application for rezoning and the required fee, the Planning Commission shall schedule a public hearing on a proposed rezoning at the next scheduled meeting of the Planning Commission.

The following procedures shall apply:

1. There shall be a public notice of the hearing published at least once in a newspaper of general circulation in the city at least 30 days before the hearing, which notice sets forth the time and place of such hearing and the proposed rezoning. The responsibility and cost of the public notice shall be borne by the party making the proposal.

2. The applicant shall notify all adjacent property owners (within 200 feet of the property lines in every direction) by certified mail, return receipt requested, at least ten days prior to the public hearing. All return receipts and a copy of the letter with an affidavit of publication by the publisher shall be furnished to the Planning Commission in care of the city prior to the public hearing.

3. The applicant shall post at least one, (1) or more where deemed necessary for adequate notice, conspicuous sign or signs on the property subject to a rezoning hearing at least ten days prior to said hearing.

Signs for this purpose shall be provided by the city, and shall note the time and date of the public hearing. Each sign shall be no smaller than two feet wide by three feet long and to contain the words ZONING HEARING ON THIS PROPERTY, printed in bold block letters a minimum of three (3) inches high with a copy of the public notice concerning the rezoning petition to be placed on the sign in a clear, weatherproof enclosure.

4. There shall be no hearing without the required public notice. Notice shall not be published before the planning commission has scheduled the public hearing.

D. Action by the Planning Commission on rezoning.

1. The Planning Commission shall hear the petitioner's request for rezoning at the public hearing and shall consider the petitioner's purposes for the rezoning request as well as public comments. The applicant shall be present at the meeting for the matter to be considered. If the applicant is unable to attend, written authorization

from the applicant authorizing representation must be presented to the commission for the matter to be considered. Any decisions made by the designated agent shall be binding on the landowner.

2. The rezoning, as presented or modified by the action following the public hearing, shall be voted on by the Planning Commission. Following such vote, the Planning Commission shall certify its recommendations to the City Council.

Should the Planning Commission determine a lesser impacting zone would be more appropriate to meet the purposes of the petitioner and would cause less impact on the neighboring parties, the Planning Commission is empowered to reduce the zoning classification requested to a different classification if the petitioner concurs, and after consideration of comments from the public, to vote thereon without the necessity of further publication of notice. Any change in zoning classification to a higher or more impacting zone would require notice be republished and public hearing be held again.

The following factors shall be considered by the Planning Commission in making any change:

- a. Whether the proposed change would be contrary to master, comprehensive or land use plans and would have an adverse effect on the plans;
- b. The existing land use pattern;
- c. The possible creation of an isolated district unrelated to the adjacent and nearby districts;
- d. The population density pattern and possible increase of overtaxing of the load on public facilities such as schools and infrastructure;
- e. Whether existing district boundaries are logically drawn in relating to existing conditions on the property proposed for change;
- f. Whether changed or changing conditions make the passage of the proposed rezoning necessary;
- g. Whether the proposed change will adversely influence property values or living conditions in the neighborhood;
- h. Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety;
- i. Whether the proposed change will create a drainage problem;
- j. Whether the proposed change will seriously reduce light and air to adjacent areas;
- k. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations;
- l. Whether the proposed change will constitute a grant of special privilege to an individual owner instead of protecting the public welfare;
- m. Whether there are substantial reasons why the property cannot be used in accord with existing zoning;
- n. Whether the change suggested is in harmony with the character of the neighborhood;
- o. Whether it is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.

E. Failure of Planning Commission to act on rezoning.

1. The Planning Commission shall make a positive or negative recommendation to the city council within 60 days on any rezoning application properly placed before it. The application shall be placed on the next City Council agenda for consideration by the City Council.

2. If the Planning Commission fails to act within this time, the applicant or other interested party shall be entitled to have the matter placed on the agenda of the next regular meeting of the City Council. The City Council shall assume direct jurisdiction over the matter and shall hold all public hearings required by this chapter or deemed in the best interest of the public.

F. Action by the City Council on rezoning.

1. The City Council, by majority vote, shall consider the Planning Commission's recommendation regarding any rezoning application at the City Council's next regularly scheduled meeting, and may by ordinance adopt the recommended rezoning forwarded to it by the Planning Commission. The City Council may also deny the rezoning, impose conditions thereon, or may return the proposed rezoning to the Planning Commission for further study and recommendation.

2. Where a rezoning is under protest by the owners of 20 percent or more of the land within such area proposed to be altered, or by the owners of 20 percent or more of the area of lots immediately abutting the sides of the parcel(s) included in the proposed change, or separated therefrom only by an alley or street, such proposal shall not be passed except by the favorable vote of three-fourths of the full membership of the City Council. (Note: for a council of six aldermen, an ordinance requires a three-fourths vote required five ayes to pass.)