

**City of Eureka Springs      Board Of Zoning Adjustment**  
**APPLICATION FOR TREE REMOVAL PERMIT APPEAL**

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

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

Name of Property Owner if different than Applicant \_\_\_\_\_

Address \_\_\_\_\_

Address and/or Legal Description of property where tree removal is proposed \_\_\_\_\_

\_\_\_\_\_ Zoning District \_\_\_\_\_

Number of trees to be removed with base diameter of 4" (inches) or more \_\_\_\_\_

An antique tree is any tree over fifty (50) years of age or with a minimum diameter of 36" (inches) measured four and one-half feet above grade. Are any antique trees to be removed? \_\_\_\_\_

Reason for tree removal request \_\_\_\_\_

**At the time of filing this application, the following exhibits must be provided to the Board of Zoning Adjustment, plus a Tree Removal Permit processing fee of \$20.00**

- \_\_\_\_\_ 1. The completed application.
- \_\_\_\_\_ 2. The denied Tree Cut Permit from the Building Official.
- \_\_\_\_\_ 3. A plan or diagram locating all living trees distinguishing which trees are proposed for removal or destruction, and the location of any existing or proposed structures.
- \_\_\_\_\_ 8. Provide current photographs of property and existing structures.

*I certify that I have read and understand Sections 7.56.01 – 7.56.10 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

**Report of Tree Removal Permit Appeal to Board of Zoning Adjustment**

Public Hearing Date \_\_\_\_\_

The Board of Zoning Adjustment of the City of Eureka Springs met in \_\_\_\_\_ regular \_\_\_\_\_ special session on \_\_\_\_\_ to review the above application.

The application was \_\_\_\_\_ Approved \_\_\_\_\_ Denied with \_\_\_\_\_ ayes, \_\_\_\_\_ nays and \_\_\_\_\_ abstentions.

Comments & Conditions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Board Secretary**      **Board Chairman**      **Date**

Revised 11/21/12

# CITY OF EUREKA SPRINGS MUNICIPAL CODE 2007

## CHAPTER 7.56 TREE PRESERVATION

### 7.56.01 Definitions

**Tree** means any living woody perennial plant with a base diameter of four (4) inches or more as measured eighteen (18) inches above ground level; provided, however, that any tree which, in the sole and exclusive discretion of the Building Inspector, has died, is irreversibly diseased or has been irreversibly damaged by natural causes, is not covered by the provisions of this section.

**7.56.02 Permit** It shall be unlawful for any person to destroy or remove any tree within the corporate limits of the city without first obtaining a "tree removal permit" ("permit") from either the city Building Inspector or the Board of Zoning Adjustment, as provided in this article.

### 7.56.03 Application for permit.

A. An "application for tree removal permit" ("application") shall contain at least the following information, along with such other information which may be requested by the Board of Zoning Adjustment:

- (1) A plan or diagram locating all living trees as defined in section 7.56.01, distinguishing which trees are proposed for removal or destruction, and the location of any existing or proposed structures;
- (2) The street address and the legal description of the property on which the trees are located;
- (3) The zoning district; and
- (4) The reason for the tree removal.

B. An application shall be submitted to the city Building Inspector who shall visit and inspect the site prior to taking any action.

C. After reviewing the application and inspecting the site, the Building Inspector may approve the application and issue a permit provided:

- (1) All healthy trees within setback lines as required under the provisions of the city's zoning ordinance, except for ingress and egress drives, shall be maintained and preserved;
- (2) No more than 30 percent of the trees on the site, with a maximum of ten trees, are to be or have been removed or destroyed;
- (3) No antique tree (one which is 50 years or older) or tree of significant historical or aesthetic value is to be removed; and
- (4) No tree with a base diameter of 36 inches or larger as measured 4 1/2 feet above ground level is to be removed.

D. The city Building Inspector shall deny any application which does not comply with all of the conditions set forth in subsections C 1 - 4 above; and he may deny any application which he feels ought to be reviewed by the entire Board of Zoning Adjustment in order to insure compliance with this article. An application which has been denied by the Building Inspector for any reason shall be automatically appealed to the Board of Zoning Adjustment which shall have the sole and exclusive authority to permit the removal of any tree notwithstanding the conditions of subsections above.

E. An appealed application shall be forwarded to the Board of Zoning Adjustment, along with a written statement by the Building Inspector setting forth the reasons for the denial, and shall be placed on the agenda for the next regularly scheduled meeting. The publication of the Board of Zoning Adjustment's agenda showing the proposed tree removal along with the address or approximate location of the site shall constitute, for the purpose of this ordinance, notice that the Board of Zoning Adjustment will take comments from the public in regard to the application. Following the public hearing, the Board of Zoning Adjustment shall review the application, and shall, by majority vote, accept, deny or modify the application.

F. The conditions set forth in Subsection C may be waived for any tree that is imminently hazardous to any existing building, sidewalk, driveway or public street if, in the opinion of the Building Inspector or the Chairman of the Board of Zoning Adjustment, an emergency exists; provided, further, that the Building Inspector or Chairman of the Board of Zoning Adjustment must file, within ten (10) days

following a waiver under this section, a written statement with the Board of Zoning Adjustment setting forth the reasons for the waiver.

**G. Re-application.** Once an application for a tree-cut permit has been denied by the Board of Zoning Adjustment, such action cannot be reconsidered for a period of 12 months after the original decision, except that the Board of Zoning Adjustment by a three-fourths (3/4) vote of the complete membership may agree to schedule an earlier hearing in those cases where the applicant, in writing, clearly demonstrates that: (1) Circumstances affecting the property that is the subject of the application have substantially changed; or (2) New information is available that could not with reasonable diligence have been presented at the previous hearing.

**7.56.04 Removal of Tree**

The Board of Zoning Adjustment shall have the authority to prohibit the removal or destruction of any tree or to impose conditions or restrictions with regard to any application appealed to it to insure compliance with this article or to preserve environmental, aesthetic or historic characteristics of the land or to protect adjacent property. If conditions or space allows replacement of trees and/or other landscaping, then the Board of Zoning Adjustment may impose a replacement of some or all trees destroyed or removed. In addition to any conditions or restrictions which the Board of Zoning Adjustment may impose, the following conditions shall be attached to every permit whether issued by the Building Inspector or the Board of Zoning Adjustment:

A. If trees are to be removed in anticipation of construction for which a building permit is required, all documents required under the city's zoning ordinance for such construction, as well as any other drawings, plans and/or blueprints as may be required by the Building Inspector, shall be submitted to and approved by the Building Inspector before any tree is removed pursuant to a tree removal permit, except as may be otherwise provided by the Board of Zoning Adjustment; and

B. When trees are to be replanted, this must take place within nine (9) months following the issuance of the permit; provided, however, that the time for replanting may be extended for an additional three (3) months by either the Building Inspector or the chairman of the Board of Zoning Adjustment upon showing that the delay in compliance is not due to the owner's negligence.

**7.56.05. Duration of permit** A permit shall be valid for one year following its issuance by either the building inspector or the Board of Zoning Adjustment.

**7.56.06 Voiding of permit** In the event the recipient of a permit fails to comply with the provisions of section 7.56.04 above, the permit will, without any further action by either the Building Inspector or the Board of Zoning Adjustment, be deemed void and, further, will be considered as never having been issued. With respect to such voided permit, the Building Inspector shall make an immediate inspection of the site and if any tree has been destroyed or removed, he shall refer the matter to the city attorney for prosecution as permitted hereinafter.

**7.56.07 Record of applications** The Building Inspector shall maintain a record of all applications for tree removal permits sorted by legal description and by street address. Every application that is submitted shall be cross-referenced against this record. Any prior tree removal or destruction activity shall be noted on the current application.

**7.56.08 Notice requirements** In its discretion, the Board of Zoning Adjustment may require that an applicant for a permit comply with the notice requirements of the city's zoning ordinance.

**7.56.09 Penalty for removal without permit** Each tree which is removed or destroyed without a valid permit or each tree which is removed or destroyed pursuant to a permit which has been deemed void, shall be treated as a separate offense and shall be subject to the fines and penalties as set out in the city's zoning ordinance.

**7.56.10 Replacement** In the event an applicant's construction is situated such that excavation, fill and/or foundation falls within a tree's drip line, but applicant and Building Inspector are desirous of trying to save said tree, then construction will be allowed to proceed without threat of fines and penalties as set out in section 114-11, should said tree subsequently die. Applicant will be required to replace such tree(s) that subsequently dies as a result of construction, however the permit shall note any special consideration as described in this section.