

**CITY OF EUREKA SPRINGS
BOZA AND PLANNING COMMISSION AGENDAS
REGULAR MEETINGS**

Tuesday, February 13, 2024 6:00 p.m. AUDITORIUM, 36 S. Main St.

**ROLL CALL - ESTABLISH QUORUM
PLEDGE OF ALLEGIANCE**

PUBLIC COMMENT

BOARD OF ZONING ADJUSTMENT

Approval of Agenda

Public Comments - General

Unfinished Business: None

New Business: None

PLANNING COMMISSION

Approval of Agenda

Public Comments - General

New Business: None

Unfinished Business: None

COMMISSION BUSINESS

1. Approval of Minutes: December 12, 2023 regular meeting
2. Meeting Dates & Times
3. Spring Street Parking Update - Kyle
4. Discussion of Short-Term Rentals - Ann Sallee
5. Tree Ordinance - Clarifying Ordinance Options that Waive Planning Commission Vote on Tree Cuts - Susan Harman
6. Wish List 2024 Discussion
7. Election of 2024 Officers
8. Meeting format - (Robert's Rules of Order- Abridged, Municipal League)
9. Agenda Setting 2/13/24

**COMMISSIONER COMMENTS
ADJOURNMENT**

Chair Susan Harman called the meeting of the Board of Zoning Adjustment and Planning Commission to order at 6:00 p.m. on December 12, 2023, in the Auditorium at 36 S. Main St.

ROLL CALL TO ESTABLISH QUORUM

PRESENT: Chair Susan Harman, Commissioners Ann Sallee, Ferguson Stewart, Tom Buford, and Susane Gruning.

ABSENT: Peter Graham and Josh Dugan.

PLEDGE OF ALLEGIANCE

Ms. Harman led the Pledge.

PUBLIC COMMENT

None.

BOARD OF ZONING ADJUSTMENT**Approval of Agenda**

Ms. Sallee moved to approve the agenda. Mr. Stewart seconded.

Public Comments – General

Kimberly Clark, 900 Pivot Rock Road, made comments in support of the application for 8 Washington.

Unfinished Business

None.

New Business:

1. **8 Washington St. – continue waiver of 200’ Rule for Conditional Use Permit for Bed & Breakfast lodging. Jamie and Jonas Funston**

Cecilia Foy and Lyla Allison represented the property owner and buyers.

Foy and Allison answered questions from the table.

Ms. Sallee made a motion to continue the waiver of the 200-foot rule. Mr. Stewart seconded.

Motion carried 5/0/0 by voice vote.

Adjournment

Mr. Sallee made a motion to adjourn the BOZA meeting. Mr. Stewart seconded.

Motion carried 5/0/0 by voice vote.

PLANNING COMMISSION**APPROVAL OF THE AGENDA**

Ms. Sallee removed number 1 under Unfinished Business.

Ms. Harmon removed 2, 3, 4, 5, 6, 7 under Commission Business and added an Overview of the Sidewalk Workshop after approval of the minutes.

Mr. Stewart moved to approve the modified agenda. Ms. Sallee seconded.

Motion carried 5/0/0 by voice vote.

PUBLIC COMMENTS

None.

NEW BUSINESS:

1. **302 Village Circle – new construction of stage. Andrew Mincks on behalf of Paul Johnson, property owner seeking new construction of an open outdoor stage.**

A representative from Buffalo Builders represented the property owner and contractors.

Table discussed application with representative.

Ms. Sallee moved to approve the stage at 302 Village. Mr. Stewart seconded.

Motion carried 5/0/0 by voice vote.

2. **8 Washington St. – continue Conditional Use Permit for two units of Bed & Breakfast lodging. Jamie and Jonas Funston**

Ms. Sallee moved to approve the transfer of the CUP at 8 Washington. Mr. Stewart seconded.

Motion carried 5/0/0 by voice vote.

UNFINISHED BUSINESS

None.

COMMISSION BUSINESS

1. **Approval of Minutes: October 10, 2023, November 14, 2023 regular meeting**

Ms. Sallee moved to approve the minutes for October 10th. Mr. Stewart seconded.

Motion carried 5/0/0 by voice vote.

Mr. Sallee moved to approve the minutes for November 14, 2023. Mr. Stewart seconded.

Motion carried 5/0/0 by voice vote.

2. **Overview of the Sidewalk Workshop**

Table discussed the sidewalk workshop.

Ms. Harman welcomed Josh Dugan to the commission.

Ms. Sallee stated she has 4 ordinances she would like to bring to the table regarding the short-term rentals and bed and breakfasts.

Ms. Harman discussed availability with the table the possibility of special meetings for tree cuts requested by Jacob.

COMMISSIONER COMMENTS

Mr. Stewart spoke on his time with Santa in the Park and holiday events.

Mr. Buford spoke on 8 Washington.

Ms. Gruning talked about the Living Windows event and encouraging businesses on Main to participate.

Ms. Sallee wished everyone a safe and merry Christmas.

Ms. Harman thanked Glenna for her service while Kyle was out of the office.

ADJOURNMENT

Mr. Stewart motioned to adjourn. Ms. Sallee seconded.

Motion carried 6/0/0 at 6:32 pm.

Eureka Springs BOZA/Planning Commission

2024 Regular Meeting Schedule

2nd Tuesday, 6:00pm,

Lower Level, City Auditorium, 36 S. Main Street

January 9

February 13

March 12

April 9

May 14

June 11

July 9

August 13

September 10

October 8

November 12

December 10

ORDINANCE NO. 2345

AN ORDINANCE OF THE CITY OF EUREKA SPRINGS, ARKANSAS REPEALING AND REPLACING 7.56.01 THROUGH 7.56.10

THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 7.56 – TREE PRESERVATION

7.56.01 Findings, purpose, and goals

The City of Eureka Springs, being the oldest Tree City USA in Arkansas, is forested by trees indigenous to the Ozark mountain area, as well as non-native species introduced to the area.

In general, trees provide benefits for both residents and visitors to the City:

- (1) Trees contribute beneficially to the climate of the City by reducing heat buildup and providing shade, moisture, and wind control;
- (2) Trees contribute to the protection of other natural resources by providing erosion control for the soil, and oxygen for the air. Trees aid in the treatment of storm water by increasing the water retention capacity of soils;
- (3) Trees provide screens and buffers to separate land use;
- (4) Oak, Maple, and Dogwood trees are especially valuable to the city and the urban forest as a whole. In addition to providing the benefits identified above, these trees provide habitat for indigenous wildlife, and contribute to the economy of the city by increasing and sustaining property values. They are also naturally pest resistant, require less water, little to no fertilizer, and can provide a bridge to nearby open space areas, creating an element of nature in the midst of an urban setting.

Trees can be burdens when located in a way that damages property, interferes with utilities, and impacts the reasonable economic use of property. In addition, non-native invasive tree species, diseased trees, hazardous trees, and trees with poor structural integrity, can adversely affect public health, safety, and welfare.

The trees located within the City limits collectively constitute an urban forest, and removals or additions of even a single tree can negatively or positively affect the urban forest and the city as a whole. However, the loss or removal of a tree from one location in the city's urban forest can often be at least partially mitigated by planting a replacement tree(s) in the same or a different location.

For the reasons stated in this section, the City of Eureka Springs enacts these regulations for the conservation of trees while recognizing private rights to develop and use property in a manner not prejudicial to the public interest.

Accordingly, this Chapter is intended to promote the following specific goals:

1. Encourage the preservation and maintenance of healthy trees while allowing for reasonable and conforming use of private property;
2. Encourage the replacement of trees removed by necessity with native, especially drought tolerant, trees and locally adapted tree species;
3. Create an efficient and cost effective Tree Removal Permit process for: unsafe or unhealthy trees, trees in poor condition, trees that cause a significant fire hazard, trees that adversely impact utilities or cause significant property damage, and trees that are required to be removed as part of vegetation/fire management plan approved by the Eureka Springs Fire Department;
4. Create public awareness of the tree ordinance, the role of trees in our environment, and best practices for tree management.

7.56.02 Definitions

Where used in this chapter the following terms are herein defined as:

Arborist means an American Society of Consulting Arborists (ASCA) registered consulting arborist, or an Arborist certified by the International Society of Arboriculture; or, an Arborist with the following credentials:

- a. graduation from a college or university with a bachelor's degree in urban forestry, landscape architecture, horticulture, botany, or closely related field; and
- b. three years' experience in urban forestry; or
- c. any equivalent combination of experience or education, additional education substituting on a year-for-year basis for the required experience.

Arborist Report means a report prepared at the request of the Board of Zoning Adjustment containing specific information on the location, condition, potential impacts of development, recommended actions, and mitigation measures regarding one or more trees on an individual lot or project site, such fee to be paid for by the applicant.

Bond means a bond from a surety company authorized to do business in Arkansas; a cash deposit to be held in trust by the City; an irrevocable letter of credit from a financial institution.

City Tree is defined as trees on city owned property.

City Tree Reserve Fund means a fund maintained by the City into which in-lieu fees and the *Tree City USA* fee will be deposited, for the purpose of planting and maintaining trees on city-

owned property.

DBH means the diameter of the tree at breast height and is measured across the widest face of the tree trunk, 4½ feet above natural grade. On a slope, the four and one-half-foot height is measured from the center of the trunk, halfway between the uphill and downhill side. In the case of multiple stemmed trees, the measurement is the sum of the diameters of the three largest stems measured at 4½ feet above natural grade.

Dead Tree means a tree that is dead or that has been damaged beyond repair or is in an advanced state of decline (where an insufficient amount of live tissue, green leaves, limbs, or branches exist to sustain life) and has been determined to be such by the City Building Inspector.

Destroy means any action undertaken which causes or may cause death or significant injury to a tree or its roots, or which places the tree in an irreversible state of decline. This includes, but is not limited to: excessive pruning as herein defined; topping, which generally means reduction of tree size using inter-nodal cuts without regard to tree health or structural integrity; trenching, excavating, grading, paving or other action which causes a significantly harmful incursion within the root system or canopy dripline of a tree; poisoning, or leaching of construction related or other damaging materials into the canopy dripline; overwatering or withholding of water or nutrition.

Dripline (canopy dripline) means an imaginary vertical line extending from the outermost portion of a tree canopy to the ground.

Excessive Pruning means removal of the leaf, stem area, predominately on one side, topping, or excessive tree canopy removal or crown raising, to such an extent as to cause the tree to die. Exceptions are when clearance from overhead utilities or public improvements is required, or to abate a hazardous condition or public nuisance.

Heritage Tree means: (a) a tree which is unique because of its advanced age (for its species) or because it represents an uncommon or endangered species; or (b) a tree which is designated a **Champion Tree** by the State of Arkansas under the *Arkansas Champion Tree Program*.

Large Diameter Tree means all broadleaf trees equal to or greater than 24" **DBH**; and all conifers equal to or greater than 28" **DBH**.

Person means any natural person, property owner, partnership, firm, corporation, governmental agency, or other legal entity.

Protected Tree means a Heritage Tree, Small Species Tree, or a Large Diameter Tree.

Pruning means selectively cutting or trimming to enhance the health and structure of a tree, improve balance, promote healthy growth, and prevent damage.

Removal means physically removing a tree or causing the removal of a tree; causing the death of a tree through direct or indirect action; or severely damaging a tree.

Replacement Tree means any tree, regardless of size, which has been planted as required mitigation for the previous removal of another tree at the same site or elsewhere in the city.

Root Pruning means trimming a tree's roots in a manner that maintains the tree's critical root zone: one foot per one inch of the trunk diameter.

Small Diameter Tree means any living woody perennial plant with a base diameter of four (4) inches or less as measured eighteen (18) inches above ground level.

Small Species Tree means those trees identified as small species as set forth in Appendix A.

Soil Compaction refers to a problematic increase in soil density: which can damage tree roots by depriving them of oxygen; can be caused by using trenchers and heavy equipment too close to a tree's critical root zone; and which can be prevented by protecting the tree's critical root zone (one foot per inch of tree diameter).

Tree Removal Assistance Fund means a fund maintained by the City to help low income or low asset property owners with dead or hazardous tree removal. Recipients of this fund will be determined by the Board of Zoning Adjustment with their Tree Removal Permit application.

7.56.03 Arborist

There is created the position of Arborist whose professional service shall be utilized as required. The Mayor and the City Council of the city shall approve all applicants who are qualified to serve as Arborist.

The Mayor, upon request of the Board of Zoning Adjustment, shall designate an Arborist from those approved applicants to render their services on a case-by-case basis. Such selection should be made on a nondiscriminatory, rotating basis, but timely availability and cost shall be determining factors.

7.56.04 Permit

- A. It shall be unlawful for any person to destroy or remove any tree within the corporate limits of the city (except those trees set forth in Parks Chapter 12.08.01 – 12-08-02) without first obtaining a Tree Removal Permit approved by both the City Building Inspector and the Board of Zoning Adjustment, as provided in this article. However, while a Tree Removal Permit is required for removal of a dead tree, the City Building Inspector may issue a Tree Removal Permit for removal of a dead tree without the approval of the Board of Zoning Adjustment.
- B. An application accompanied by a fee of Forty Dollars (\$40.00) shall be submitted to the City Building Inspector who shall visit and inspect the site prior to taking any action. \$10 of the \$40 application fee will be deposited into the Tree Removal Assistance Fund.
- C. An application fee is not required for a *Small Diameter Tree*, nor for a *City Tree*. A City

Tree does not require a *Tree Removal Permit* in that such trees shall be under the control of the City Building Inspector / Code Enforcement Officer and the Department of Public Works; since such trees can potentially damage the sidewalks, as the roots of City Trees often need to be trimmed or removed as the City sidewalks need to be repaired.

7.56.05 Application for Tree Removal Permit

An application for a Tree Removal Permit shall contain at least the following information along with such other information which may be requested by the Board of Zoning Adjustment:

- (1) The street address and owner(s) address of the property on which the tree(s) are located.
- (2) The legal description of the property
- (3) The Zoning District
- (4) The reason for the tree removal
- (5) A diagram, at least 8 ½ inches by 11 inches in size, locating all living trees on the site which diagram shall identify such trees by size and species, attached as *Exhibit "A"* to the application.
- (6) A diagram, at least 8 ½ inches by 11 inches in size, locating all existing structures, locating the trees to remain on-site by size and species, attached as *Exhibit "B"* to the application; and identifying any proposed structures, roads, streets, and parking.
- (7) A diagram, at least 8 ½ inches by 11 inches, locating all trees for which removal is being applied for, which trees must be identified as to size and species; and marked on the site by tying neon green or red flagging around the trunk at least three (3) feet from the ground, attached as *Exhibit "C"* to the application.
- (8) A statement by the Applicant as to how the tree or trees are to be disposed of. Trees to be removed should not be left on the site as a potential fire hazard. This does not prevent the Applicant from utilizing such trees for firewood.

After reviewing the application and inspecting the site, the City Building Inspector/Code Enforcement Officer shall apply the criteria set forth in section 7.56.06 and recommend to the Board of Zoning Adjustment that the Tree Removal Permit be approved, disapproved, or modified. The reason for such action shall be set forth in the report to the Board of Zoning Adjustment.

The Board of Zoning Adjustment will review the recommendation of the City Building Inspector/Code Enforcement Officer and may schedule a site visit and/or consult with an Arborist. The Board of Zoning Adjustment will then, based on the above, approve, disapprove, or modify the Tree Removal Permit.

7.56.06 Criteria for Review

<u>Criteria Supporting Tree Retention</u>	<u>Criteria Insufficient to Support Tree Removal</u>	<u>Criteria Supporting Tree Removal</u>
<p>(A) The tree is located outside of the developable area of the property.</p> <p>(B) The effect of the requested tree removal on the remaining number, species, size and location of existing trees on the site and in the area, including trees mutually dependent on each other for survival or structural integrity.</p> <p>(C) The tree is a Protected Tree.</p> <p>(D) Review of the City Building Records as to number of trees removed from site during the past three years (Section 7.56.12).</p>	<p>(A) The tree is:</p> <ul style="list-style-type: none"> (i) shading the yard/house (ii) dropping leaves, needles, or other normal material. (iii) obstructing views. (iv) preventing alternative landscaping of the yard. (v) attracting birds or other wildlife. (vi) leaning; or swaying in the wind; but with no documentation provided to reflect that an on-site assessment from a qualified professional has verified specific hazard(s). 	<p>(A) The tree is:</p> <ul style="list-style-type: none"> (i) in poor condition or crowding other trees (ii) at the relative end of its life span for its particular species. (iii) diseased or infested beyond reasonable attempts at remediation. (iv) showing poor structural integrity. (v) in danger of falling; or, (vi) a safety hazard. <p>(B) The particular tree species is undesirable due to characteristics such as invasiveness, tendency toward limb failure, and fire hazards. See Appendix "A".</p> <p>(C) The tree is damaging or interfering with existing structures, site improvements and utility services.</p> <p>(D) Removal of the tree is needed in order to construct improvements or otherwise allow conforming use of the property.</p> <p>(E) Proximity of the tree to existing or proposed structures, i.e. tree is within ten feet of structure.</p> <p>(F) Mitigation or removal of tree or trees is supported by a tree replacement plan.</p>

1. The conditions set forth in Criteria Supporting Tree Removal (A) through (F) 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 City Building Inspector/Code Enforcement Officer, the Chairman of the Board of Zoning Adjustment if an emergency exists; provided, further, that the City Building Inspector /Code Enforcement Officer and the 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. This notice shall be served in person or by certified return receipt requested restricted delivery mail to the last known address of the owner. The endorsement upon the notice shall be sufficient evidence of his action in the premises.
2. If a tree is on Private property and meets the Criteria Supporting Tree Removal as set forth in (A) iii, iv, v, and vi, and in the opinion of the City Building Inspector / Code Enforcement Officer is in need of immediate removal, and after having obtained the approval of the Board of Zoning Adjustment, such official shall issue a written notice for the property owner to remove such tree or trees. This notice may be served in person or by certified

return receipt requested restricted delivery mail to the last known address of the owner. The endorsement upon the notice by the Building Official serving the notice shall be sufficient evidence of his action in the premises.

3. If any person shall neglect or refuse to remove such tree or trees within sixty (60) days after notice as aforesaid, he shall be subject to a fine of Fifty Dollars (\$50.00) for each offense, and each day he shall neglect or refuse to remove such tree or trees shall constitute a separate offense. The owner also shall be liable for the costs for which the city may incur by reason thereof, to be recovered by the city in an action of law.
4. In the event the City expends City funds for mitigation and/or rehabilitation of a violation, the City may file a lien against the real property for the cost as authorized by Arkansas Code. The amount of the lien may be determined at a public hearing before the City Council held after thirty (30) days written notice by mail, return receipt requested, to the owner of the property if the name and whereabouts of the owner is known, and to the lienholders of record.

If the name of the owner or the whereabouts of the owner cannot be determined, then the amount will be determined only after newspaper publication as required by law, of notice of the public hearing once a week for (4) consecutive weeks. The determination of the City Council is subject to appeal to the Circuit Court within the time specified by law. The amount so determined at the hearing plus ten percent (10%) penalty for collection in accordance with Arkansas Code Annotated Section 14-54-904 (a)(2)(A), may be certified by the City Council by resolution to the tax collector of the county in which the property is located, to be placed on the tax books as delinquent taxes and collected accordingly. The amount, less three percent (3%) thereof, when so collected, shall be paid to the City by the County Tax Collector.

In the alternative, the City may file a lien for the amount determined, as set out above, which can then be collected by enforcement against the real property by a filing in the Carroll County Circuit Court as authorized in Arkansas Code. Either method of collection can be used at the discretion of the City.

7.56.07 Re-Application

Once an application for a tree-cut permit has been denied by the Board of Zoning Adjustment, no application of any type may be reconsidered for a period of twelve (12) months after the original decision, except that the Board of Zoning Adjustment, by a three-fourths ($\frac{3}{4}$) vote of the complete membership may agree to schedule an earlier hearing in those cases where the applicant, in writing, clearly demonstrates that:

- A. Circumstances affecting the property that is the subject of the application have substantially changed; or
- B. New information is available that could not with reasonable diligence have been presented at the previous hearing.

7.56.08 Removal and Protection of Trees

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 submitted to it, in order to ensure compliance with this article, and to:

- A. Preserve environmental and historic characteristics of the land;
- B. Protect adjacent property;
- C. Ensure compliance with City Code 11.56.05, Section C, 5 - "*Tree Protection*"- which states: "*No cuts or fills are allowed within the drip line of trees with a diameter of greater than four (4) inches, unless approved by the Planning Commission.*"

If conditions or space allow replacement of trees and/or other landscaping, then the Board of Zoning Adjustment may require 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 City Building Inspector/Code Enforcement Officer or the Board of Zoning Adjustment:

1. 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 City Building Inspector/Code Enforcement Officer, shall be submitted to and approved by the City Building Inspector/Code Enforcement Officer before any tree is removed pursuant to a Tree Removal Permit, except as may be otherwise provided by the Board of Zoning Adjustment; and
2. When trees are to be replanted, this must take place within one year following the issuance of the Building Permit.

7.56.09 Site Visit

The City Building Inspector/Code Enforcement Officer shall inspect the site prior to the Building Permit being issued and shall file a report as to whether the Tree Removal Permit has been complied with. In the event the applicant has removed trees in violation of the Tree Removal Permit, then no Building Permit may be issued until the Board of Zoning Adjustment has approved an acceptable mitigation plan for replacement trees. Each Tree Removal Permit Application shall contain language whereby the Owner or Applicant shall grant permission to (a) the City Building Inspector / Code Enforcement Officer, (b) the Board of Zoning adjustment, and (c) the City approved Arborist to enter the property during the time the application is pending.

7.56.10 Tree Replacement Requirements

Number and Size: The number and size of replacement trees is based on the number and size of trees approved for removal, as indicated in the table below. If you are replacing a tree that was required as a part of an approved Tree Removal Permit, the replacement species must be consistent with the Tree Removal Permit. The replacement tree or trees may be of any species that continues the diversity of trees found in the community as shown on the attached Appendix "A".

<u>Trunk Size of Removed Tree (measured at 4 feet above grade)</u>		<u>Replacement Ratio Required (per tree removed)</u>	
<i><u>Diameter (inches)</u></i>		<i><u>Number of replacement trees</u></i>	<i><u>Minimum Size</u></i>
8 to 12		1	2 inches in diameter and eight (8) feet to ten (10) feet in height
12 to 24		2	2 inches in diameter and ten (10) feet to twelve (12) feet in height
Large Diameter Trees and Heritage Trees		3	2 inches in diameter and twelve (12) feet to fourteen (14) feet in height

In Lieu Fee: If the site layout cannot reasonably accommodate the number of trees required in compliance with the above table, at the discretion of the Board of Zoning Adjustment, payment of an in-lieu fee equal to fair market value of a tree identified on *Appendix "A"*, delivered and installed, may be accepted (currently \$500 per tree). Such fee shall be deposited in the City's Tree Reserve Fund.

Other Requirements: The following requirements and standards apply to all Tree Removal Permit applications:

1. Cost of Replacement Trees: Replacement trees shall be obtained and planted at the expense of the applicant.
2. Replanting Period: Refer to section 7.56.08 – 2
3. Inspection: The City Building Inspector/Code Enforcement Officer, the Arborist, and the Board of Zoning Adjustment shall be permitted to enter the property while the application for the tree removal is pending, and to verify the installation of the replacement trees and to verify the condition of the replacement trees.
4. Maintenance of Replacement Trees: Any person who is required to plant replacement trees

as a condition of a Tree Removal Permit shall maintain such trees in a healthy condition to ensure their long-term survival.

5. Performance and Maintenance Bond: A faithful performance bond, maintenance bond or other security deposit shall be required to be paid to the City prior to the issuance of the Tree Removal Permit. The bond shall be in an amount of money and for a period of time determined by the Board of Zoning Adjustment and/or the Arborist to ensure acquisition and proper planting and maintenance of the replacement trees.

7.56.11 Voiding of Permit

In the event the recipient of a permit fails to comply with any provisions of the Tree Removal Permit, the permit will, without any further action by the City Building Inspector/Code Enforcement Officer be deemed void and, further, will be considered as never having been issued.

7.56.12 Record of Applications

The City Building Inspector/Code Enforcement Officer 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.

7.56.13 Tree Service License

It shall be unlawful for any person or contractor to engage in the business or occupation of pruning, treating, or removing trees within the City without first applying for and securing an Occupational License. However, no license shall be required of any public service or utility company for doing such work on an emergency basis. An insurance policy with no less than 1 million dollar (\$1,000,000) general liability coverage must be presented before licensure is issued. A list of locally licensed Tree Service businesses and Arborists shall be available at City Hall.

7.56.14 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.

7.56.15 Penalty

Any person removing trees in violation of this ordinance shall be fined the sum of Two Hundred Fifty dollars (\$250.00) for each Small Species Tree that is removed, Seven hundred fifty dollars (\$750.00) for each Large Diameter Tree that is removed, and One thousand dollars (\$1000.00) for each Heritage Tree that is removed. Along with fines paid, the person shall be subject to replacement of the removed trees as defined in section 7.56.10 of this chapter.

Section 2. If, for any reason, any portion or portions of this ordinance shall be held invalid, such invalidity shall in no way affect the remaining portions thereof which are valid, but such valid portions shall be and remain in full force and effect.

PASSED AND APPROVED THIS 25th DAY OF SEPTEMBER, 2023

ATTEST:



Ida Meyer, Clerk Treasurer

APPROVED:



Robert "Butch" Berry, Mayor

APPENDIX “A”

LARGE SPECIES -Mature Height Reaching 45 Feet or More

Common Name	Scientific Name
American Beech	<i>Fagus grandifolia</i>
Baldcypress	<i>Taxodium distichum</i>
Bitternut Hickory	<i>Carya cordiformis</i>
Black Oak	<i>Quercus velutina</i>
Black Gum	<i>Juglans nigra</i>
Bur Oak	<i>Quercus macrocarpa</i>
Chinkapin Oak	<i>Quercus muehlenbergii</i>
Eastern White Pine	<i>Pinus strobus</i>
Frontier Elm	<i>Ulmus carpinifolia x parvisfolia</i>
Hackberry	<i>Celtis occidentalis</i>
Japanese Scholar Tree	<i>Sophora japonica</i>
Japanese Zelkova	<i>Zelkova serrata</i>
Jefferson Elm	<i>Ulmus americana 'Jefferson'</i>
Lacebark Elm	<i>Ulmus parvifolia</i>
Littleleaf Linden	<i>Tilia cordata</i>
Loblolly Pine	<i>Pinus taeda</i>
Norway Spruce	<i>Picea abies</i>
Northern Red Oak	<i>Quercus rubra</i>
Osage Orange	<i>Maclura pomifera</i>
Pecan	<i>Carya illinoensis</i>
Prospector Elm	<i>Ulmus wilsoniana</i>
River Birch	<i>Betula nigra</i>
Scotch Pine	<i>Pinus sylvestris</i>
Shagback Hickory	<i>Carya ovata</i>
Shingle Oak	<i>Quercus imbricaria</i>
Shumard Oak	<i>Quercus shumardi</i>
Shortleaf Pine	<i>Pinus echinata</i>

APPENDIX “A” (continued)

LARGE SPECIES -Mature Height Reaching 45 Feet or More (continued)

Common Name	Scientific Name
Silver Linden	<i>Tilia tomentosa</i>
Southern Magnolia	<i>Magnolia grandiflora</i>
Southern Red Oak	<i>Quercus falcate</i>
Southern Catalpa	<i>Catalpa bignonioides</i>
Sycamore	<i>Platanus occidentalis</i>
Sugar Maple	<i>Acer saccharum</i>
Sugarberry	<i>Celtis laevigata</i>
Swamp White Oak	<i>Quercus bicolor</i>
Sweetgum	<i>Liquidambar styraciflua</i>
Tuliptree	<i>Liriodendron tulipifera</i>
Turkish Filbert	<i>Corylus colurna</i>
Water Oak	<i>Quercus nigra</i>
White Oak	<i>Quercus alba</i>
Willow Oak	<i>Quercus phellos</i>

MEDIUM SPECIES - Mature Height Reaching 30-45 Feet

Common Name	Scientific Name
American Hophornbeam	<i>Ostrya virginiana</i>
American Holly	<i>Ilex opaca</i>
Chinese Pistache	<i>Pistacia chinensis</i>
Crepe Myrtle	<i>Lagerstroemia indica</i>
Eastern Arborvitae	<i>Thuja occidentalis</i>
Eastern Redcedar	<i>Juniperus virginiana</i>
English Oak	<i>Quercus robur</i>
Hawthorns	<i>Crataegus paniculata</i>
Goldenrain Tree	<i>Koelreuteria paniculata</i>
Japanese Black Pine	<i>Pinus thunbergii</i>
Japanese Yew	<i>Taxus cuspidata</i>
Persimmon	<i>Diospyros virginiana</i>

APPENDIX "A" (continued)

MEDIUM SPECIES - Mature Height Reaching 30-45 Feet (continued)

Common Name	Scientific Name
Rocky Mountain Juniper	<i>Juniperus scopulorum</i>
Sassafras	<i>Sassafras albidum</i>
Scarlet Oak	<i>Quercus coccinea</i>
Thornless Honeylocust	<i>Gleditsia tricanthos</i>
Yellowwood	<i>Cladrastis kentuckea</i>

SMALL SPECIES - Mature Height Reaching Less Than 30 Feet

Common Name	Scientific Name
American Smoketree	<i>Cotinus obovatus</i>
Crabapple	<i>Malus speciose</i>
Fringe Tree	<i>Chionanthus virginicus</i>
Flowering Dogwood	<i>Cornus florida</i>
Lilac	<i>Syringa species</i>
Little Gem' Magnolia	<i>Magnolia granidflora 'Little Gem'</i>
Oriental Arborvitae	<i>Platycladus orientalis</i>
Possumhaw	<i>Ilex deciduas</i>
Redbud	<i>Cercis canadensis</i>
Serviceberry	<i>Amelanchier arborea</i>
Saucer Magnolia	<i>Magnolia x soulangiana</i>
Star Magnolia	<i>Magnolia virginiana</i>
Trident Maple	<i>Acer buergerianum</i>
Yaupon Holly	<i>Ilex vomitoria</i>

PROCEDURAL RULES FOR MUNICIPAL OFFICIALS



ARKANSAS MUNICIPAL LEAGUE

P.O. Box 38
North Little Rock, AR 72115
501-374-3484
www.arml.org

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This book has been prepared for the special purpose of aiding the municipal officials of Arkansas in the conducting of meetings of the governing bodies of cities and towns.

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INTRODUCTION

This manual is designed to provide a guide for parliamentary procedure at meetings of city councils, commissions and boards of directors. The rules are few and simple because a council meeting is no place for complex parliamentary procedure. Complex and sophisticated rules of parliamentary procedure would serve only to slow up and complicate the processes of a council meeting, and moderators are well advised to make every effort to keep their rulings simple.

In recent years cities and towns have been called upon to increase the scope of their activities and their services. This means that the business of municipal government, the issues facing council meetings, and the decisions the citizen will be called upon to make in council meetings will be more complicated and more technical. Simple rules of council meeting procedure then become mandatory in order to keep the council meeting business orderly and understandable.

The word "council" is used in its broad sense to include city and town councils, city commissions, boards of directors and all governing bodies.

I. THE PATTERN OF MEETINGS

Councils usually follow a fixed pattern in conducting their meetings. The order is arranged for convenience and enables members to know in advance when each type of business will be considered. The order of business should be provided for in the resolutions or ordinances of the city. The following is merely a suggested order of business and is not required by law:

1. Call to order
2. Roll Call
3. Reading of minutes of the previous meeting
4. Reports of boards and standing committees
5. Reports of special committees
6. Unfinished business
7. New business
8. Announcements
8. Adjournment

There may be deviation from the order of business by a motion to suspend the rules or by general consent. To secure general consent the mayor states that there will be a change in the order of business if no member objects.

Call to Order

Meetings should be called to order promptly at the appointed time. The mayor calls the meeting to order by rapping with his gavel and announcing: "The meeting will please come to order."

Roll Call

Usually the mayor or other presiding officer will not call the meeting to order if a quorum is not present. A majority of the aldermen is a quorum in all cities and towns. In first class cities, the mayor may vote to form a quorum at a regular meeting. In other cities and towns, the mayor may vote to form a quorum at any meeting. The rules may require that the clerk or recorder call the roll. The presiding officer may say: "The clerk will call the roll." When the clerk or recorder calls the roll, he calls the names of the members alphabetically or by wards and concludes by calling, "Mr. or Ms. Mayor."

Reading of Minutes

After the roll call, the reading of the minutes of the previous meeting or meetings is the next item of business.

The mayor may say: "The clerk will please read the minutes of the last meeting."

If the governing body wishes, it may postpone the reading of the minutes to another meeting by majority vote or by unanimous consent unless some member objects.

Many cities and towns mail a copy of the minutes to aldermen prior to meeting, then a verbal reading of the minutes is not required.

Reports of Committees

The mayor next calls upon the chairman of each standing committee and asks if he has a report. The usual order is (1) the chairmen of standing committees in the order in which the committees are named by resolution or ordinance; (2) the chairmen of special committees in the order of their appointment.

Unfinished Business

Following the committee reports, the mayor calls for unfinished business. He may say: "Unfinished business is now in order," or "Is there any unfinished business?"

Unfinished business consists of all business which was pending and undisposed of at the last meeting, as well as any matters which may have been postponed to this particular meeting.

It is the duty of the mayor to present any item of unfinished business that some other member does not present.

New Business

When the unfinished business has been completed, the mayor announces: "New Business is now in order," or "Is there any new business to come before the council?"

This offers an opportunity for members to bring up any motions that they wish to have considered by the governing body. If no new business is presented, and the mayor knows of matters that should be considered, he informs the governing body of these matters and asks if any member wishes to propose a motion covering them.

Announcements

When all members who wish to present motions have done so, the mayor calls for announcements.

If it is possible to confine all announcements to the period set aside for them, rather than to have them presented at various times throughout the meeting, business will be expedited. The mayor first calls upon members who have previously indicated to him that they wish to make announcements. He then asks if there are any other members who have announcements and concludes with his own.

Adjournment

When the business of a meeting appears to be completed, some member should move to adjourn. As soon as a motion to adjourn is proposed, the mayor should put the motion to a vote, and if the motion carries, he announces that the meeting is adjourned. The meeting is not adjourned until formal announcement of its adjournment is made by the mayor.

If no member moved to adjourn, the mayor may suggest that if there is no further business, some member should move to adjourn.

II. HOW MOTIONS ARE HANDLED

The business of a meeting is carried on by means of motions. In a broad sense a motion is a formal statement of a proposal for the governing body to consider and vote upon.

It is well to become familiar with the steps of handling a motion and with their phraseology. Only after these mechanics of a motion become second nature can one concentrate on the content of the motion.

The following are the steps in handling a motion:

1. A member addresses the mayor
2. The mayor recognizes the member
3. The member states his motion
4. Another member seconds his motion
5. The mayor states the motion to the assembly
6. Members may discuss the motion, if debatable
7. The clerk or recorder takes the vote
8. The mayor announces the result

Addressing the Chair

Any member of the council may propose a motion. He may do this at any appropriate time when ever there is no business before the assembly.

To present a motion, a member addresses the presiding officer by his official title; for example: "Mr. or Ms. Mayor."

Addressing the chair is equivalent to requesting permission to present a motion or to discuss a motion already presented.

Recognition by the Mayor

The mayor recognizes a member by calling his name, or by nodding to him, or by designating him in some other way.

As soon as the mayor recognizes a member, that member is entitled to the undivided attention of the council while he proposes or discusses a motion.

Proposing a Motion or a Resolution

A motion is a proposal that the assembly take certain actions. It is always stated in the form:

"I move ..." followed by the proposal to be considered.

This is the correct form for proposing a motion because it definitely establishes, as a motion, the proposal which follows. Such introductory phrases as "I suggest," or "I move you," or "I so move," may get the desired result, but are not good form.

An occasional brief introductory remark may preface a motion, but discussion or debate is usually not permissible until a motion has been stated by the mayor and is before the council for discussion. If it is desirable to have discussion before a motion can be formulated, this may be done by moving that the subject be considered informally.

Seconding Motions

After a member has proposed a motion, it is then in order for another member to second the motion. The seconding member says: "I second the motion."

If the mayor does not hear a second to a motion, he should ask, "Is there a second to the motion that ..." and repeat the motion, since it may be that some of the members have not understood its meaning. If no second is forthcoming, the mayor declares the motion "lost for want of a second."

Seconding a motion means that the seconder wishes to have the motion presented to the assembly for consideration. It does not necessarily imply that

the seconder favors the motion or intends to vote for it. Requirement of a motion and a second is based on the belief that at least two members should be interested in the discussion of a proposition before a motion is presented to the assembly. Some organizations, by special rule, require no seconds.

Routine motions, such as approving the minutes, are frequently stated by the mayor without waiting for a second, unless some member objects. If a member does object, the mayor must call for a second.

In committees and boards, no seconds are required.

Statement of Motion by the Mayor

As soon as a motion has been properly moved and seconded, it is the duty of the mayor to state the motion promptly to the council. Until he has done so, the motion is under the control of its maker and can be withdrawn or modified by him as he wishes. Once the motion has been stated to the council, it is in the possession of the body to do with it as it chooses.

If a motion is proposed in a form which is misleading, vague, or overly complicated, it is the duty of the mayor either to request the member to rephrase his motion or to rephrase it himself. If the mayor rephrases the motion, he should make sure that he does not change its meaning. He should ask the member whether the rephrased motion, as stated to the council, expresses his proposal correctly.

If a motion proposes action which is contrary to law, or to the bylaws or rules, or if it is obviously dilatory (that is, made for the purpose of delaying business) or is completely unsuitable for the consideration of the council, the mayor should rule it out of order. He may say, "The chair rules your motion out of order," and state the reason for so doing.

Discussing a Motion

A member obtains the floor to discuss a motion in the same manner as he does to propose a motion.

Once a member has been recognized for the purpose of discussing a motion, he must be protected in his right to speak, so long as he observes the rules of decorum and confines his remarks to the subject.

Debate is restricted to the measure under consideration, and neither its proposer nor his motives can be discussed. The rules of debate require that all discussion be impersonal and that it be addressed to the presiding officer.

Voting on a Motion

When it appears that all members who wish to discuss the question have done so, the mayor may inquire: "Is there any further discussion?" or "Are you ready for the vote?"

This query gives notice that debate is about to close, and that if any member wishes to claim the floor, he should do so immediately.

The mayor should ignore calls of "Question!" from the floor, for no member has a right to try to force an immediate vote in this manner.

If no one claims the floor, the mayor, after a pause, puts the question to vote.

The announcement of the vote by the mayor is the last step in the production line which has carried the motion from its introduction by an individual member to its disposal by vote of the council or governing body.

III. THE PRECEDENCE AND CLASSIFICATION OF MOTIONS

The rank of motions, which is called "precedence," keeps the business of the meeting going with efficiency, and every motion is attended to in its proper turn. The order of precedence of motions is based on the degree of their urgency; and it is logical and easy to understand. The following is a list of the more important motions, arranged in the order of their precedence:

Order of Precedence

1. Adjourn
2. Recess
3. Question of privilege
4. Postpone temporarily ("lay on the table")
5. Vote immediately ("previous question")
6. Limit debate
7. Postpone definitely
8. Refer to committee
9. Amend
10. Postpone indefinitely
11. The general main motion

Number 11 is the main motion

Numbers 4-10 are subsidiary motions

Numbers 1-3 are privileged motions

The Four Classes of Motions

1. Main Motions

This group is made up of motions which bring subjects (as contrasted with procedural questions) before the council for decision. These motions constitute the principal business of a meeting. They are the most important of all motions because they bring the main business before the meeting.

2. Subsidiary Motions

This group is made up of seven motions which are alternative methods of changing or disposing of the main motion. Their name derives from the fact that they are subsidiary to the main motion and, therefore, can be proposed only when a main motion is before the council.

If a main motion is pending and some members do not wish to vote on it directly at the time, they have several choices as to how the motion may be modified or disposed of. For example, one member may believe that it is an unsuitable motion for the council to consider and may move to postpone it indefinitely. Another may think that the motion should be changed so that it conforms more closely to the ideas of the council and may move to amend it.

3. Incidental Motions

The motions of this group arise incidentally out of the business that is before the council. In general, they are concerned with the rights and privileges of members. They have only a few characteristics in common.

The purpose of this group of motions is to handle procedural problems which arise out of the consideration of other questions. These problems, naturally, must be settled before consideration can be given to the question out of which they arise.

Incidental motions are not included in the list of precedence because they may be proposed at any time and must be decided whenever they arise. Therefore, they present no problem of precedence.

The important incidental motions are:

Appeal

Point of order

Parliamentary inquiry

Suspend rules

Withdraw a motion

Object to consideration

Division of a question

Division of the assembly

Many additional motions may arise incidentally during the discussion of another motion. Examples of motions that may arise incidentally are: motion to excuse a member from voting; to consider a resolution paragraph by paragraph; to close nominations.

4. Privileged Motions

This small group is composed of motions which are so important that they are given privileges not accorded to other motion. They are, in effect, main motions that, because of their urgency, must be decided before the pending question. They relate to the members and to the council rather than to the main motion.

Rules of Precedence

The chief purpose of dividing motions into four groups is to determine their rank or precedence. This rank is fixed and definite and is based on logical reasoning. It is simple to understand and to apply.

It is not necessary to memorize the precedence of the 11 important motions. Practice in using them will soon fix their rank in your mind because their order is so logical that they could not be effectively arranged in any radically different way.

There are two important rules of precedence:

1. When a motion is pending, any motion of a higher rank may be proposed, but no motion of lower rank is in order. The motion to adjourn (No. 1) has the highest rank, and a main motion (No. 11) has the lowest. If a main motion (No. 11) is pending, any motion of higher rank (No. 10 to 1) can be proposed. If No. 8 is pending, No. 7 to No. 1 can all be proposed, but No. 9 or No. 10 cannot.

2. Motions are considered and voted upon in inverse order to the order of their proposal, the last one proposed being considered and disposed of first. For example, if motions No. 11, 10, 7 and 2 were proposed in that order, they would be considered and voted upon in the following order: No. 2, 7, 10 and 11.

IV. QUORUM

A quorum is one necessary ingredient for a meeting. What is a quorum? A quorum is the minimum number of the members that must be present at a meeting in order to transact business legally. Before a mayor calls a council meeting to order, he should be reasonably sure that a quorum is present. If a quorum is not present, all the group can do is fix a time for another meeting and adjourn.

A majority of the council is a quorum. In first class cities, the mayor may vote to form a quorum at a regular meeting. In other cities and towns, the mayor may vote to form a quorum at any meeting.

V. DEFINITIONS OF PARLIAMENTARY TERMS

ADJOURN: To terminate a meeting officially.

ADOPT: To approve, to give effect to.

ADOPT A REPORT: The formal acceptance of a report. Adoption commits the council to everything included in the report.

AFFIRMATIVE VOTE: A “yes” vote to a question before a council; an agreement to its acceptance.

AGENDA: The official list of business to be considered at a meeting.

AMEND: To change, by adding, deleting, or substituting works or provisions.

ANNUL: To void or cancel an action previously taken.

APPEAL: A decision of the presiding officer may be appealed from. An appeal requires that the decision be referred to the council for its determination by a vote.

COMMON LAW: Law developed by court decisions. Judge-made law.

DEBATABLE: Capable of being discussed.

DIVISION OF QUESTION: Separation of a main motion into two or more independent parts, each of which is capable of standing alone.

GENERAL CONSENT: An informal method of disposing of routine and generally favored proposals by the chairman assuming the group’s approval, unless objection is raised. Also called “unanimous consent.”

INCIDENTAL MOTIONS: Motions relating to questions that arise incidentally out of the business, or order or manner of considering the business of a council.

LAY ON THE TABLE: To postpone a motion until a later, but as yet undetermined, time.

LIMIT DEBATE: To place restrictions on the time to be devoted to debate on a question or the number of speakers or the time allotted each.

MAIN MOTION: A motion presenting a subject to a council for discussion and decision.

NEW BUSINESS: Any business other than unfinished or “old business” that may properly be brought before a council.

OBJECT TO CONSIDERATION: To oppose discussion and decision of a main motion.

ORDER OF BUSINESS: The formal program of sequence of different items or classes of business arranged in the order in which they are to be considered.

ORDINANCE: Law made by the legislative body of a municipality.

PENDING QUESTION: A question, or motion, before the council which has not yet been voted upon.

POSTPONE DEFINITELY: To defer consideration of a motion or report until a specific time.

POSTPONE INDEFINITELY: To kill a motion or report by deferring consideration of it indefinitely.

POSTPONE TEMPORARILY: To defer consideration of a report or motion until the council chooses to take it up again. The old form of the motion was “lay on the table.”

PRECEDENCE: The right of prior proposal and consideration of one motion over another, or the order or priority of consideration.

PRIVILEGED MOTIONS: The class of motions having the highest priority.

QUESTION OF PRIVILEGE: Request or motion affecting the comfort or convenience of the council or one of its members.

RECONSIDER: Motion to cancel the effect of a vote so that the question may be reviewed and redecided.

REFER TO COMMITTEE: Motion to delegate work to a small group of members for study, decision or action.

RESUME CONSIDERATION: To take up for consideration a motion that has been postponed temporarily. The old form of the motion was “take from the table.”

SPECIAL COMMITTEE: A committee appointed to

accomplish a particular task and to submit a special report. It ceases to exist when its task is completed.

SPECIAL MEETING: A meeting called to consider certain specific business that must be set forth in the call.

STANDING COMMITTEE: A committee to handle all business on a certain subject that may be referred to it, and usually having a term of service corresponding to the term of office of the officers of the organization.

UNFINISHED BUSINESS: Any business deferred by a motion to postpone to a definite time, or any business that was incomplete when the previous meeting adjourned. Unfinished business has a preferred status at the following meeting.

VIVA VOCE VOTE: A vote taken by calling for “ayes” and “noes” and judged by volume of voice response. Sometimes called “voice vote.”

VOTE IMMEDIATELY: Motion to close debate, shut off subsidiary motion and take a vote at once.

WITHDRAW: Motion by a member to remove his motion from consideration by the council.

VI. PRINCIPAL RULES GOVERNING MOTIONS

Order of precedence		Can interrupt speaker?	Requires a second?	Debatable?	Amendable?	Vote required?
I.	Privileged Motions					
	1. Adjourn	no	yes	no	no	majority
	2. Recess	no	yes	no	yes	majority
	3. Question of privilege	yes	no	no	no	no vote
II.	Subsidiary Motions					
	4. Postpone Temporarily	no	yes	no	no	majority
	5. Vote Immediately	no	yes	no	no	two-thirds
	6. Limit Debate	no	yes	no	yes	two-thirds
	7. Postpone Definitely	no	yes	yes	yes	majority
	8. Refer to Committee	no	yes	yes	yes	majority
	9. Amend or Substitute	no	yes	yes	yes	majority
	10. Postpone indefinitely	no	yes	yes	no	majority
II.	Main Motions					
	11. General Main Motion	no	yes	yes	no	majority
II.	Incidental Motions					
	12. Appeal	yes	yes	yes	no	tie or majority
	13. Point of Order	yes	no	no	no	no vote
	14. Parliamentary Inquiry	yes	no	no	no	no vote
	15. Withdraw a Motion	no	no	no	no	no vote
	16. Suspend Rules	no	yes	no	no	two-thirds
	17. Object to Consideration	yes	no	no	no	two-thirds neg.
	18. Division of a Question	no	no	no	no	no vote
	19. Division of Assembly	yes	no	no	no	no vote

