

ORDINANCE NO. 1439

AN ORDINANCE AMENDING TITLE 14 OF THE EUREKA SPRINGS  
MUNICIPAL CODE REGARDING PRESERVATION OF TREES

WHEREAS, the Planning Commission recommends that that portion of the Municipal Code dealing with the preservation of trees be amended to reflect changes suggested by the court in a recent law suit and to clarify what is an offense under the code; and that a public hearing was held on said changes as required by State law.

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

Section 1. That Paragraphs A, C and H, and sub-paragraph F-5 of Section 5-1~~9~~ of the Zoning Ordinance (Title 14) be amended by substituting the words "Board of Zoning Adjustment" for the words "Planning Commission".

Section 2. That Sub-paragraph 4, Paragraph F of Section 5-1~~9~~ of the Zoning Ordinance (Title 14) be amended to read as follows:

4. No tree with a base diameter of thirty six (36) inches measured four and one-half (4-1/2) feet above ground level is to be removed. Should any completed application not comply with all conditions stated above, the Building Inspector shall not issue a Certificate, and the application shall be automatically appealed to the Board of Zoning Adjustment for placement on the agenda of the next regularly scheduled meeting along with a written statement by the Building Inspector of the reasons for denial of the issuance of the Certificate; and

Section 3. That Paragraph G of Section 5-1~~9~~ of the Zoning Ordinance (Title 14) be amended to read as follows:

G. The Board of Zoning Adjustment shall have the authority to prohibit the clearing of any land or to impose conditions or restrictions on any application appealed to it for a Certificate of Approval to Clear Land to insure compliance with this section or to preserve environmental, aesthetic or historic characteristics of the land or to protect adjacent property.

Section 4. That a new paragraph, Paragraph I, be added to Section 5-1~~9~~ and will read as follows:

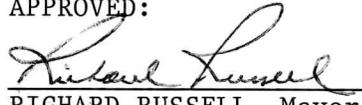
I. Each tree removed or destroyed, without first obtaining a permit authorizing its removal or destruction, will be treated as a separate offense and will be subject to the fines and penalties as set out in Section 8-3, Violation and Penalties.

Section 5. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 6. If any provision, word, phrase, sentence, paragraph or section of this Ordinance shall be held unconstitutional or otherwise unenforceable by a Court of competent jurisdiction, such holding shall be deemed to apply only to such provision, word, phrase, sentence, paragraph or section, and the remainder of this Ordinance shall remain in full force and effect.

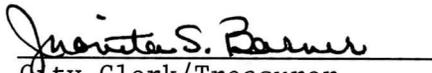
PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY  
OF EUREKA SPRINGS, ARKANSAS ON THIS 12th DAY OF JUNE,  
1991

APPROVED:



RICHARD RUSSELL, Mayor Pro-Tem

ATTEST:

  
Joetta S. Barner  
City Clerk/Treasurer