

**NOTICE OF APPEAL/VARIANCE REQUEST BEFORE
THE CITY OF LITTLE ROCK PLANNING COMMISSION**

To all owners of lands adjacent to the boundary of or across the street or alley from subject property described as:

LOCATION: _____

DESCRIPTION: _____

APPLICANT: _____ **Phone #:** _____

ADDRESS: _____

AUTHORIZED AGENT: _____ **Phone #:** _____

In accordance with Section 29-172 of the Little Rock Code of Ordinances, notice is hereby given that the Planning Commission will hear the appeal of /variance to:
(check applicable appealable issue)

- ___ a) **Notice of Violation #:** _____
- ___ b) **Grading and Drainage Plan Decision**
- ___ c) **Restoration Plan Requirement**

(check applicable variance requested)

- ___ a) **Clear and grade a multi-lot or multi-phase development where construction is not imminent on all phases of the development**
- ___ b) **Harvest Timber**
- ___ c) **Exceed the cut, fill, and slope requirements of Sec. 29-190**
- ___ d) **Restoration requirements of Sec. 29-196**

as they relate to the City of Little Rock's Land Alteration Regulations in the Board of Directors Chambers, Second (2nd) Floor, City Hall, at 500 West Markham on:

Date: _____, at **4:00** _____ **p.m.**

Parties may appear and be heard at said time and place or may notify the Planning Commission of their views on this matter by letter. All persons interested in this appeal/variance are invited to call, visit, email, or submit a letter to the *City of Little Rock Public Works, 701 West Markham, Little Rock, AR 72227.*

The Public Works contact person is **Vince Floriani** at phone #: (501) 371-4817 or email at *vfloriani@littlerock.org*

APPLICANT (Owner or Authorized Agent): _____
(Signature)

(date)

AFFIDAVIT

I hereby certify that I have properly notified all owners of record as directed in Little Rock Rev. Code (1988) Section 29-172/29-187 for filing a petition for a hearing of an appealable/a variance issue before the Planning Commission. Further, that proof of such notice has been provided to the Director of Public Works at least three (3) business days prior to the hearing in compliance. I understand that failure to provide the required notice will cause the appeal to the Planning Commission to be dismissed, although minor irregularities in the giving notice may be waived by the commission.

APPLICANT (Owner or Authorized Agent): _____

(Print)

(Signature)

(date)

Sec. 29-172. Hearing before Planning Commission.

Appeals of a notice of violation as provided for in section 29-170(e), a grading and drainage plan decision, or a restoration plan requirement as provided in section 29-196 shall be heard by the planning commission provided an appeal is filed by the applicant within ten (10) calendar days after the date of the notice of violation, fee(s) are paid, and proper public notice is given. Any hearing before the planning commission regarding such appeal will be conducted in the following manner:

- a) The appellant shall submit an application and fee as provided in section 29-193 to the director of public works within the time limits provided for in section 29-170(e). The appellant shall provide (1) a cover letter that clearly sets forth the provisions of the ordinance that are being appealed and (2) a copy of all pertinent graphic materials or correspondence. Appealable issues are as follows:
 - (1) for a notice of violation, appealable issues are the determination that a violation has occurred, the time frame for correcting the violation, and the corrective action to be required;
 - (2) for a grading and drainage plan decision, appealable issues are the denial of a grading permit and the terms of a grading permit.
 - (3) For a restoration plan, appealable issues are any requirements of section 29-196.
- b) Certified mail notice of all appeals shall be given by the applicant to adjacent property owners, including those across a street or alley from the subject property, at least ten (10) days prior to the planning commission meeting at which the appeal is to be considered. At least three (3) business days prior to the hearing, the appellant shall provide proof of notice to the director of public works. Failure to provide the required notice will cause the appeal to the planning commission to be dismissed, although minor irregularities in the giving of notice may be waived by the commission.
- c) At the conclusion of questioning and statements, the chairman will call the appeal to a vote as follows:
 - (1) For an appeal of the finding of a violation, either to affirm or overturn the finding of violation; upon affirmation of a finding of violation, a citation may be issued to the appellant;
 - (2) For an appeal of the time to correct the violation, either to affirm the time or determine a new time;
 - (3) For an appeal of the corrective action, either to affirm, determine a new corrective action, or decide that a corrective action is not feasible. A finding that a corrective action is not feasible or appellant's refusal to comply with the commission's decision may result in a citation being issued to the appellant.
 - (4) For an appeal of a grading and drainage plan decision, either affirm or overturn the decision to deny a grading permit, either affirm the permit term or establish a new permit term.
 - (5) For an appeal of a restoration plan or plan provision, either to affirm, determine a new provision or provisions, or decide that restoration is not feasible. A citation may be issued after finding that restoration is not feasible or upon appellant's refusal to fully comply with the restoration measures required by the planning commission.
- (d) Decisions by the Commission shall be final and are not appealable to the City Board of Directors.

Sec. 29-187. Exemptions and variances.

- (a) A grading permit shall not be required for:

- (1) Construction on properties in the City of Little Rock (i) zoned agriculture and forestry (AF); (ii) properties abutting on a collector street of two (2) acres or less zoned single or two family districts R1, R2, R3, R4 or R7A, and residentially zoned property five (5) acres or less fronting on a residential street.
- (2) Emergency work or repairs to protect health, safety and welfare of the public. Removal of damaged or diseased trees will be permitted by staff upon certification by the city forester of the condition of the trees sought to be removed; and
- (3) Mining and mining operations because these activities are covered by the Arkansas Open Cut Land Reclamation Act [A.C.A. Section 15-57-301 as amended], which is regulated by the state Department of Environmental Quality.
- (b) The planning commission may grant variances from the standards set forth in this article provided that a variance request is filed by the applicant, fee(s) are paid, and proper public notice is given. The applicant shall submit a variance request application and fee as provided in section 29-193 to the director of public works. As part of the application, the applicant shall provide (1) a cover letter that clearly sets forth the provisions of the code from which a variance is requested and (2) a copy of all pertinent graphic materials or correspondence.
- (c) Certified mail notice of all variance requests shall be given by the applicant to adjacent property owners, including those across a street or alley from the subject property, at least ten (10) days prior to the planning commission meeting at which the variance is to be considered. At least three (3) business days prior to the hearing, the applicant shall provide proof of proper notice to the director of public works. Failure to provide the required notice will cause the variance request to the planning commission to be dismissed, although minor irregularities in the giving of notice may be waived by the commission.
- (d) Appeals from the variance decision of the planning commission shall be filed with the appropriate court of jurisdiction within thirty (30) calendar days of the decision of the planning commission.
- (e) Variances may be granted, to the extent that the change will not be contrary to the purposes set forth in section 29-168:
 - (1) To clear and grade a multi-lot or multi-phase development where construction is not imminent on all phases of the development;
 - (2) To harvest timber on land not otherwise allowed under this section in accordance with a reasonable staff approved forestry management plan which is determined to be reasonable and prepared by a registered forester or certified arborist using best management practice guidelines for silviculture in urban areas, that complies with the purposes and requirements of this article; however, clear cutting or total harvests shall not be allowed;
 - (3) To exceed the cut, fill, and slope requirements of Sec. 29-190;
 - (4) From the restoration requirements of Sec. 29-196.

The planning commission may impose conditions on the approval of variances. Where variances are granted, applicants shall otherwise comply with all other provisions of the ordinance

including, but not limited to, obtaining a grading permit prior to construction or tree removal, meeting the standards for grading, drainage, tree removal, maintaining buffer zones, erosion controls, and establishing of vegetative cover following grading activities.

Sec. 29-193. Fees.

A fee for each appeal and variance shall be paid to the city as follows:

Flat Fee \$50.00 plus \$5.00 per acre of the total project area up to ten (10) acres, not to exceed \$100.00

Sec. 29-197. Advanced grading plan requirements.

- (1) All advanced grading projects shall be performed under plans approved in conformance with the requirements of this section or as approved by the commission.
- (2) Once clearing and grading operations commence, the work described in the plan shall be expeditiously completed in the time frame set forth in the plan unless specifically limited by the grading permit and shall not exceed one (1) year in duration from the time work commences to installation of all final erosion control measures and vegetation.
- (3) A survey, grading and drainage plan, stormwater detention basin design and line of sight illustrations from adjacent streets and properties must be provided to the planning commission for review.
- (4) Plans shall provide for visual screening of the completed area by providing undisturbed perimeter buffer strips and earthen berms. In cases where maintenance of an undisturbed buffer is deemed not practical to provide screening, earthen berms, tree plantings or other suitable measures may be required.
- (5) Undisturbed areas designated for temporary buffers shall be kept undisturbed except for reasonable access to the site. The width of the temporary buffer strip shall be six percent (6%) of the lot width and depth. The minimum width shall be fifty (50) feet where the subject property is adjacent to other properties, residential streets, collector streets, and industrial streets. The minimum width shall be eighty (80) feet where the subject property is adjacent to city parks, and arterial streets. In no event shall these temporary strips be less than the width of the permanent buffers required for the development. The minimum required width shall not exceed one hundred (100) feet.
- (6) All buffers required in conjunction with an advanced grading project shall be considered temporary and shall be maintained until the property is developed.
- (7) Construction access points through the perimeter buffer zones shall be limited in number and constructed to the minimum width needed to facilitate access. A curved

or angled road design should be provided to limit the visibility of the interior grading work from adjacent streets.

- (8) If the property has seven (7) or fewer trees per acre, screening of the site with berms, undisturbed buffer zones, and tree plantings may be omitted if a suitable vegetative soil cover is provided.
- (9) Storm water detention must be constructed on site in accordance with Chapter 29, Article IV. Design Criteria and Performance standards and maintained following the completion of grading activities.
- (10) At the completion of land alteration activities, a minimum of six inches (6") of suitable top soil shall be placed over all disturbed areas and permanent vegetative cover shall be established. Top soil shall be suitable clay or silt loam soil capable of supporting perennial vegetation. If on-site soil is suitable, the top soil may be stripped from the site prior to grading, or suitable soil may be brought in from off-site.
- (11) A permanent vegetative cover of suitable perennial grass shall be established over all disturbed areas. Where indicated by soil tests, ph adjustment and the addition of fertilizer may be required.
- (12) All erosion and stabilization controls, including permanent vegetation and plantings, and stormwater detention systems, are to be maintained by the responsible party for a period of two (2) years following the completion of site grading. Periodic mowing, generally twice per year or more often if required by the City of Little Rock Code or Ordinances, shall be provided to encourage perennial grass growth.
- (13) Maintenance for the two (2) year period shall be guaranteed through posting of cash, surety bond or letter of credit as referenced in Section 31-431(2) at the time of final inspection of the grading activities.
- (14) All required federal, state, and local permits and approvals shall be obtained prior to commencement of land alteration activities.