

1.

ORDINANCE NO. 49-16

**AN ORDINANCE AMENDING THE 2009 UNIFIED DEVELOPMENT
ORDINANCE OF THE CITY OF FORT SMITH**

WHEREAS, the Board of Directors passed and approved Ordinance No. 36-09 which adopted the Unified Development Ordinance on May 19, 2009; and,

WHEREAS, it is necessary to amend certain sections of the Unified Development Ordinance to provide clarity and remove conflicts with other provisions of the Municipal Code; and,

WHEREAS, the Planning Commission held a public hearing regarding these proposed amendments and recommended on August 9, 2016, that said changes be made; and,

WHEREAS, three (3) copies of September 2016 Amendments to the Unified Development Ordinance (home occupation standards) have been on file in the Office of the City Clerk of the City of Fort Smith for inspection and review by the public prior to the passage of this Ordinance; and,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH THAT:

SECTION 1: The September 2016 Amendments to the Unified Development Ordinance (home occupation standards) are hereby adopted.

SECTION 2: The codifier shall amend the existing sections of the Unified Development Ordinance.

SECTION 3: It is hereby found and determined that the adoption of these amendments to the Unified Development Ordinance is necessary to alleviate an emergency created by the lack of regulation of uses of property within the City of Fort Smith so that the protection of the health, safety and welfare of the inhabitants of the City requires that the amendments be effective, and the amendments are hereby made effective, as of the date of approval of this Ordinance.

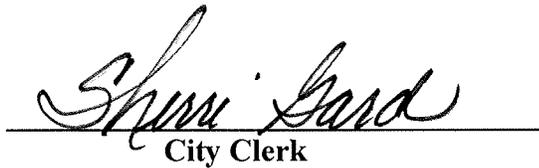
PASSED AND APPROVED THIS 6th DAY OF September, 2016.

APPROVED:



Mayor

ATTEST:



City Clerk

Approved as to form:



Publish One Time

SEPTEMBER 2016
AMENDMENTS TO THE UNIFIED DEVELOPMENT
ORDINANCE

E. Planning Commission Consideration. The Planning Commission shall review home occupation applications at its regularly scheduled monthly meeting, at which time interested persons may appear and offer information in support of or in opposition to the proposed home occupation.

F. Minimum Requirements for Consideration. The Planning Commission, in reviewing applications under this section, may consider the performing of a skill, talent, service or profession on a limited basis as a home occupation only if it complies with all of the following:

1. The area to be used for the home occupation is no greater than thirty (30%) percent of the living space of the residence.
2. There shall be no occupational activity on the premises outside of the main structure. An existing detached building which is utilized in conjunction with a home occupation shall be no larger than three hundred (300) square feet in size and can only be utilized for storage of materials.
3. No sign may be used in the operation of the business.
4. No outdoor display of any goods or services and no outdoor storage of materials or equipment are allowed.
5. The home occupation is required to be run only by the resident members of the household and shall not have any other employees, concessionaires or other operators or helpers whether such business is conducted on the premises or off the premises.
6. No sale of any retail or wholesale item or items is allowed on the premises unless they are considered as an accessory item of the approved business. Items drop-shipped or delivered by order may be permissible only after the Planning Commission has approved such operation.
7. Any business conducted on the premises shall be by appointment only, such that no more than two (2) patrons shall be at the business at any one time.
8. The Planning Commission shall have the authority to limit the operating hours of a business where it deems it necessary in order to assure compatibility with the residential neighborhood.
9. The resident shall not utilize the address of the property in any form of business advertising. This includes, but is not limited to, paid commercial advertising, telephone directory advertising, flyers, business cards, etc.

10. The home occupation shall not produce any fumes, odors, noise or any other offensive effects that are not normal to residential activity.

11. The home occupation shall not require the construction of any additional off-street parking areas which would detract from the residential character of the neighborhood. The Planning Commission in exceptional circumstances may allow the construction of additional off-street parking, but under no circumstances more than two (2) spaces in addition to those currently in use for residential purposes. All parking and maneuvering areas must be completely contained on private property. A parking site plan must be approved by the Planning Commission where a business would require customers coming to the property.

12. A commercial trash container shall not be utilized.

13. All vehicles shall be parked in compliance with Section 14-52, Section 14-54, and Section 14-55 of the Fort Smith Municipal Code.

G. Determination. The Planning Commission shall then make one (1) of the following determinations on the application:

1. Approve the application as submitted.
2. Approve the application as amended with modification(s).
3. Continue the application to a date certain.
4. Deny the application.

H. Conditions. The Planning Commission may impose conditions and restrictions on the property benefited by the home occupation use to reduce or minimize the injurious effects of the home occupation.

I. Compatibility. The Planning Commission is not required to approve any application for the operation of any home occupation which, in its opinion, is not compatible with the integrity of the neighborhood.

J. Verification. No license for the conduct of any business shall be issued until City Inspections verify compliance with all conditions set by the Planning Commission.

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