

ORDINANCE NO. 86-20**AN ORDINANCE ADOPTING THE OCTOBER 2020 AMENDMENTS TO THE 2019 UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF FORT SMITH**

WHEREAS, the Board of Directors passed and approved Ordinance No. 87-19 which adopted the Unified Development Ordinance on October 15, 2019, and,

WHEREAS, is it necessary to amend certain sections of the Unified Development Ordinance to provide clarity and remove conflict with other provisions of the municipal code; and,

WHEREAS, the Planning Commission held a public hearing regarding the amendments and recommended on September 8, 2020, that changes be made; and,

WHEREAS, three (3) copies of October 2020 Amendments to the Unified Development Ordinance 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,

WHEREAS, the October 2020 Amendments to the Unified Development Ordinance includes amendments add *cellular phone and accessory sales* and *substance abuse and treatment facility (outpatient)* to the land use chart, and *youth sports leagues or teams, indoor games facility*, and *specialty contractor* as permitted by right in the ETJ Industrial Light (ETJ I-1) zoning district, to allow a landscape buffer to start adjacent to a utility easement, revise the perimeter landscaping Section 27-602-3(B)-3 to correctly refer to a Sight Visibility Triangle diagram;

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

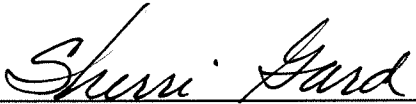
SECTION 1: The October 2020 Amendments to the Unified Development are hereby adopted.

SECTION 2: The codifier shall codify the amended provisions within the existing sections of the Unified Development Ordinance.

SECTION 3: It is hereby found and determined that the adoption of the October 2020 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. An emergency is declared and it is determined that the protection of the health, safety and welfare of the inhabitants of the City requires that the amendments be effective immediately, and the amendments are hereby made effective as of date of approval of the Ordinance.

PASSED AND APPROVED THIS 6th DAY OF October, 2020.

ATTEST:



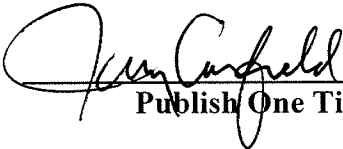
City Clerk

APPROVED:



Mayor

Approved as to form:



Publish One Time

OCTOBER 2020
UNIFIED DEVELOPMENT ORDINANCE
AMENDMENT

Cameras, photographic supplies and services

shall mean businesses which retail and repair cameras, photographic equipment, film processing, and supplies. They also provide repair services and film developing.

Camps, camping and related establishments

shall mean an area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

Car wash (full-service)

shall mean a facility for the washing and cleaning of motor vehicles utilizing production line methods with conveyors, sprayers, blowers or other mechanical devices, and which employs hand labor.

Car wash (self service)

shall mean a facility for washing and steam cleaning passenger automobiles (including self-service operation), operating either as a separate facility or in conjunction with another use.

Carnival or circus

shall mean a traveling or transportable group or aggregation of rides, shows, games, or concessions of any combination thereof.

Carpet and upholstery cleaning

services customers at individual home or business locations in carpet and upholstery cleaning.

Carport

a permanent roofed structure open on at least two sides, designed for or occupied by private passenger vehicles.

Casino gaming business

shall mean an establishment engaging in the gaming business which utilizes any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device, or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, blackjack, poker, keno, baccarat, roulette, craps, slot machine, video poker or any other gaming, percentage game or any other similar game or device.

Catering service

shall mean a facility that provides the service and the supply of food to be consumed off the premises.

Cellular phone and accessory sales

shall mean establishments primarily engaged in operating, maintaining, selling, and servicing of cellular phones and accessories.

Structural alterations

shall mean any external or internal change in either the supporting members of a building such as a bearing wall, column, beam or girder or in the dimension or configuration of the roof or exterior wall.

Structure

shall mean a combination of material to form a construction that is safe and stable. The term structure shall be construed as if followed by the words "or part thereof."

Studio of the arts, private,

shall mean a working place for one engaged in artistic painting, sculpture, or other individual artistic endeavor.

Subdivider

shall mean any person who has an interest in the land and causes it, directly or indirectly, to be divided into a subdivision.

Subdivision

shall mean the division of or the assimilation of one (1) or more parcels of land into two (2) or more parcels resulting in the need for access and utilities. "Subdivision" also includes the development of land resulting in the need for access to lots and parcels, the need to provide or extend utilities, the need to improve adjacent infrastructure due to insufficient existing capacity and the added demand resulting from proposed development.

Substance abuse treatment facility

shall mean a facility for the purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use or addiction.

Substance abuse treatment facility (outpatient)

shall mean a facility for the purposes of temporary or long-term outpatient treatment of victims of alcohol or drug use or addiction.

Substandard street

shall mean any existing street whose right-of-way does not meet the designated requirements of the master street plan or the minimum street standards, whichever is greater.

Substantial progress

shall mean the obtaining of a building permit and the actual completion of at least fifty (50) percent of the repairs authorized by the permit.

Swimming pool

shall mean a water related recreational facility designed and intended for access by the public. Pools that are part of a country club, health club, hotels and motels or similar uses are accessory to the principal use.

Swimming pool sales and supplies store (without storage yard)

shall mean a facility for display and retail sales of swimming pools, related supplies and service.

Swimming pools, public

Appendix A

| | Districts | RE3 | RE1 | RS-1 | RS-2 | RS-3 | RS-4 | RS-5 | RSD-2 | RSD-3 | RSD-4 | RM-2 | RM-3 | RM-4 | RMD | RH | T | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | I-1 | I-2 | I-3 | I-4 | | |
|--|-----------|-----|-----|------|------|------|------|------|-------|-------|-------|------|------|------|-----|----|---|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--|--|
| P = Permitted Use, C = Conditional Use, A = Accessory Use | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Boat or marine craft dealer | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Car wash - full service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Car wash self-service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Gasoline service station | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Motorcycle or ATV sales & service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tire sales | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Truck stop/travel plaza | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Heavy Consumer Goods Sales or Service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agricultural equipment and supplies (sales & service) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Appliance repair - (Large) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Appliance repair (Small) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bus, truck sales and service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cellular phone and accessory sales | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Clothing and personal items (repair) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial, industrial machinery & equipment (sales & service) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Department store, warehouse club or superstore | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Computer and software shop | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Electronics and appliances (new) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Electronics and appliances (used) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Floor, paint, wall coverings, window treatments | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Furniture or home furnishings (new) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Furniture or home furnishings (used) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Furniture repair and upholstery shop | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Greenhouse (sales) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hardware store | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hardware store (neighborhood) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Home improvement center | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Lawn and garden supplies | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Locksmith | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Lumber yard and building materials | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mall or shopping center | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Manufactured home and mobile home sales and service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Oil and gas equipment (sales and service) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sand, gravel, stone, or earth sales and storage | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Swimming pool sales and supply store (w/o storage yard) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Truck or tractor sales and service facility | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Durable Consumer Goods Sales or Service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bait and tackle shop | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bicycle sales and service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bicycle sales and service (no outside storage) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bookstore | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bridal shop | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cameras, photographic supplies and services | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Appendix A

| | RE3 | RE1 | RS-1 | RS-2 | RS-3 | RS-4 | RS-5 | RSD-2 | RSD-3 | RSD-4 | RM-2 | RM-3 | RM-4 | RMD | RH | T | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | I-1 | I-2 | I-3 |
|---|-----|-----|------|------|------|------|------|-------|-------|-------|------|------|------|-----|----|---|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| P = Permitted Use, C = Conditional Use, A = Accessory Use | | | | | | | | | | | | | | | | | | | | | | | | | |
| Preschool | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| Primary and secondary school | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| School, business professional | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| School, technical or trade | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| Public Administration - Government | | | | | | | | | | | | | | | | | | | | | | | | | |
| Criminal justice facility | | | | | | | | | | | | | | | | | | | | | | | | | |
| Detention facility | | | | | | | | | | | | | | | | | | | | | | | | | |
| Government office | | | | | | | | | | | | | | | | | | | | | | | | | |
| Public Safety | | | | | | | | | | | | | | | | | | | | | | | | | |
| Emergency response station | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fire and rescue station | | | | | | | | | | | | | | | | | | | | | | | | | |
| Police station | | | | | | | | | | | | | | | | | | | | | | | | | |
| Police substation (no incarceration) | | | | | | | | | | | | | | | | | | | | | | | | | |
| Health and Human Services | | | | | | | | | | | | | | | | | | | | | | | | | |
| Community health and welfare clinic | | | | | | | | | | | | | | | | | | | | | | | | | |
| Diagnostic laboratory testing facility | | | | | | | | | | | | | | | | | | | | | | | | | |
| Doctor office and clinic | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hospice residential care facility | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hospital | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mental health hospital | | | | | | | | | | | | | | | | | | | | | | | | | |
| Nursing home | | | | | | | | | | | | | | | | | | | | | | | | | |
| Substance abuse treatment facility (outpatient only) | | | | | | | | | | | | | | | | | | | | | | | | | |
| Social Assistance, Welfare, and Charitable Services | | | | | | | | | | | | | | | | | | | | | | | | | |
| Child and youth services (office) | | | | | | | | | | | | | | | | | | | | | | | | | |
| Day care Home (12 or less) | | | | | | | | | | | | | | | | | | | | | | | | | |
| Day care center | | | | | | | | | | | | | | | | | | | | | | | | | |
| Community food services | | | | | | | | | | | | | | | | | | | | | | | | | |
| Emergency and relief services | | | | | | | | | | | | | | | | | | | | | | | | | |
| Family support services | | | | | | | | | | | | | | | | | | | | | | | | | |
| Senior citizen center | | | | | | | | | | | | | | | | | | | | | | | | | |
| Vocational rehabilitation | | | | | | | | | | | | | | | | | | | | | | | | | |
| Religious Institutions | | | | | | | | | | | | | | | | | | | | | | | | | |
| Church, synagogue, temple, mosque | | | | | | | | | | | | | | | | | | | | | | | | | |
| Rectory, convent, monastery | | | | | | | | | | | | | | | | | | | | | | | | | |
| Note: educational/hospital facilities owned or run by religious institutions are classified by use not ownership | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wedding chapel | | | | | | | | | | | | | | | | | | | | | | | | | |
| Death Care Services | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cemetery, mausoleum, crematorium, funeral home, & mortuary | | | | | | | | | | | | | | | | | | | | | | | | | |
| Monument (manufacturing) | | | | | | | | | | | | | | | | | | | | | | | | | |
| Monument (sales) | | | | | | | | | | | | | | | | | | | | | | | | | |
| Associations, Nonprofit Organizations | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | |
|---|--|---|---|---|---|---|---|---|---|---|
| 5310 Amusement or theme park (indoor) | | | | | | | | P | | |
| | Amusement or theme park (outdoor) | | | | | | | | C | |
| 5330 Bingo | | | | | | | | | | |
| | Casino | | | | | | | | C | C |
| 5370 Fitness, recreational sports, gym, athletic club | | | | | | | | | | |
| | Athletic/health club facilities | | | | | | | C | P | |
| | Community center (public or private) | | | P | P | | C | C | C | C |
| | Driving range | | | | | | | | | P |
| | Golf course | | | P | P | C | C | C | C | C |
| | Gun club (indoor) | | | | | | | | C | C |
| | Gun club (outdoor range) | | | | | | | | C | C |
| | Miniature golf | | | | | | | P | C | C |
| | Sexually oriented businesses (see sec. 14-153) | | | | | | P | P | | |
| | Swimming pools | | | | | | C | C | P | |
| | Swimming pool - private | A | A | A | A | | | | | |
| | Youth sports leagues or teams | | | | | | | | | P |
| | S3200 Indoor games facility | | | | | | | | | P |
| | S3300 Sports stadium or | | | | | | | | C | C |

| | | | | | | | | | | | | |
|--|--|--|--|--|---|---|---|---|---|----------|---|--|
| | | 6564 Emergency and relief services | | | | | | | | | | |
| | | 6565 Other family services | | | | | | C | | | | |
| | | 6566 Services for elderly and disabled | | | | | | | | | | |
| | | Adult day care | | | | | | | | | | |
| | | 6567 Veterans affairs | | | | | | | | | | |
| | | 6568 Vocational rehabilitation | | | | | | | | | | |
| | | 6600 Religious institutions | | | C | C | | C | C | C | | |
| | | Church affiliated daycare, on-site | | | A | A | A | A | A | | | |
| | | 6700 Death care services | | | | | | C | C | C | | |
| | | 6800 Associations, nonprofit organizations | | | | | | | | | | |
| | | Fraternal organization | | | | | | C | C | C | C | |
| 7000 Construction-Related Businesses | | | | | | | | | | | | |
| Construction-related businesses | | 7100 Building, developing, and general contracting | | | | | | | P | P | P | |
| | | 7200 Machinery related | | | | | | | | | | |
| | | 7300 Special trade contractor | | | | | | | | <u>P</u> | P | |
| | | 7400 Heavy construction | | | | | | | | | | |
| 8000 Mining and extraction establishments | | | | | | | | | | | | |
| Mining and extraction establishments | | 8100 Oil and natural gas | | | | | | | | | | |
| | | 8200 Metals | | | | | | | | | | |
| | | 8300 Coal | | | | | | | | | | |
| | | 8400 Non-metallic mining | | | | | | | | | | |

include any cumulative building additions from the effective date of this ordinance that over a five year period amount to a 50% or greater increase in square footage.

3. Rehabilitation projects shall conform to the guidelines to the greatest extent possible.
4. Industrial, storage, and distribution buildings when constructed along major arterial or boulevard streets as classified by the master street plan, or adjacent to residential zoning districts or single family development, and/or those buildings at the perimeter of an industrial subdivision shall provide perimeter landscaping only.
5. Parking lots used solely for the display of vehicles at an approved auto and vehicle dealer are required to provide perimeter landscaping only.
6. Development or properties in compliance with these regulations shall not be renovated, remodeled, altered, or repaired so that the site will be in noncompliance with these regulations.

B. Perimeter Landscaping Perimeter landscaping requirements along public rights-of-way are as follows:

1. A ten-foot wide landscaped area is required and shall be located on the property parallel and adjacent to the public street right-of-way line. Provided public utilities are immediately adjacent to the right-of-way line, the ten-foot landscape buffer may commence adjacent to the utility easement.
2. The minimum requirement for a planting strip will be one (1) tree and ten (10) shrubs for every fifty (50) linear feet of right-of-way frontage.
3. To insure that landscape materials do not constitute a sight hazard, a clear sight visibility triangle shall be observed at all street intersections or intersections of driveways with streets. Within the designated sight visibility triangle, no landscape material exceeding twenty-four (24) inches in height shall be permitted; .provided, trees may be permitted as long as only the tree trunk is visible between the ground and eight (8) feet above the ground and the tree does not otherwise present a traffic visibility hazard. The dimensions of the sight visibility triangle are as indicated in the attached diagram for driveways for street intersections in Section 27-503-3.

C. Parking Lot Screening.

Parking lot screening shall be placed in the ten-foot landscaped area reserved for the perimeter landscaping. The parking lot screening can satisfy the perimeter landscaping requirements, when the parking lot screening is installed in compliance