

ORDINANCE NO. 18-20**AN ORDINANCE AMENDING 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 the 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 amendment and recommended on February 11, 2020, that changes be made; and,

WHEREAS, three (3) copies of March 2020 Amendment to the Unified Development Ordinance – Meeting Notice Requirements and Comprehensive Plan 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 March 2020 Amendment to the Unified Development Ordinance – Meeting Notice Requirements and Comprehensive Plan includes amendments clarifying the Comprehensive Plan’s role as a policy document; and,

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

SECTION 1: The March 2020 Amendment to the Unified Development Ordinance – Meeting Notice Requirements and Comprehensive Plan is hereby adopted.

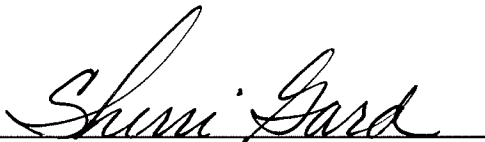
SECTION 2: The codifier shall codify the new sections and amend the existing sections of the Unified Development Ordinance.

SECTION 3: It is hereby found and determined that the adoption of the amendment 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 amendment be effective, and the amendment is hereby made effective, as of date of approval of the Ordinance.

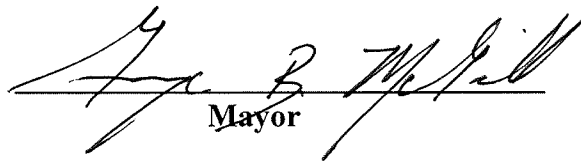
PASSED AND APPROVED THIS 3rd DAY OF March, 2020.

ATTEST:

APPROVED:

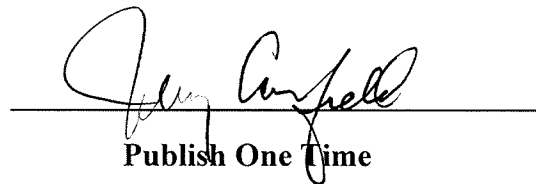


City Clerk



Mayor

Approved as to form:



Publish One Time

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Chapter 27-100

General Provisions

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27-101	Purpose and Objectives
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The Unified Development Ordinance is enacted to promote the orderly growth and expansion of Fort Smith, Arkansas (City). These regulations provide for the orderly development of subdivisions, expansion of infrastructure and public services, and divide the city into several zoning districts. Within these zoning districts, the Unified Development Ordinance (UDO or "these regulations") prescribes the character, area, bulk, location and use of buildings and land. These regulations are designed to achieve the following objectives:

- (1) To stabilize and conserve property values.
- (2) To protect streets, schools and utilities from overloading by limiting population density.
- (3) To provide locations for each land use which are properly related to traffic, utilities and other land uses.

- F. The word "lot" includes the words, "parcel," "plot" or "tract," but does not include leased lands.
- G. The word "occupied" shall be construed as though followed by the words, "or intended, arranged, or designed to be occupied."
- H. The word "City" means the area of jurisdiction of the City of Fort Smith, Arkansas.
- I. All public officials, bodies and agencies to which reference is made are those of the City of Fort Smith, Arkansas.
- J. All yards required by this chapter shall be open and unobstructed by structures from the lowest level of the lot to the sky except as specifically regulated herein.
- K. Unless otherwise specified, number of days will be calendar days.

27-107 Consistency with Comprehensive Plan

- ~~A. The UDO is intended to be used as a tool for implementing the goals, objectives and policies of the Fort Smith Comprehensive Plan. Any amendments to the UDO or actions taken pursuant to the UDO shall be consistent with the Comprehensive Plan.~~
- A. The comprehensive plan is a policy document, as compared to a regulatory document, which sets forth the goals, policies, land planning principles, and actions that define and support a common vision for the city. The comprehensive plan does not designate zoning or land use classifications. The UDO is intended to be used as a tool for implementing the goals, objectives and policies of the comprehensive plan.
- ~~B. Text amendments to the UDO are consistent with the Comprehensive Plan if such amendments comply with the goals and policies stated in the Plan, as it may be amended from time to time. An amendment to the zoning map is consistent with the Comprehensive Plan provided the map amendment is consistent with the Master Land Use Plan, as it may be amended from time to time.~~
- B.- No action taken pursuant to the UDO, including but not limited to amending the Master Land Use Plan or amending the zoning map, shall require any amendment or modification to the comprehensive plan. In no event shall an amendment to the zoning map or Master Land Use Plan be considered inconsistent with the comprehensive plan.

(4) The facility shall include landscaping and the lot amenities (decor) shall be similar to the adjacent residential lots.

NOTE:

1. The following uses including, but not limited to, nursing homes, boarding and rooming houses, rescue missions, orphanages, fraternities, sororities and halfway houses shall not be considered group homes or community residential facilities.

2. A community residential facility for the handicapped shall not house handicapped persons whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. It shall be the responsibility of the agency operating the group home to approve all applications for residents to assure compliance with this requirement.

Comprehensive plan

shall mean the plan developed by the City for the purpose of bringing about an orderly, coordinated, and physical development of the City. Any reference to the comprehensive plan in the UDO shall be by express reference only. Terms or phrases in the UDO which do not expressly reference the comprehensive plan, including but not limited to "adopted plans," "adopted policies," "area plans," "functional plans," "planning policies," or "policies," shall not be intended to refer to the comprehensive plan.

Computer and software shop

shall mean a facility for the sale, repair and service of computers, software, and their parts and accessories.

Concept Plan

shall mean a site or survey plan which is general in nature and which depicts the intended lot configuration and street layout of a proposed subdivision.

Conditional use

shall mean uses that can be approved in a zone where they are specifically listed as conditional uses and are subject to special conditions as determined by the planning commission as outlined in Chapter 27-332.

Congregate living

shall mean these establishments that serve meals in what may be low-income and federally subsidized housing or non-subsidized housing facilities.

Consistent

shall mean where an improvement, design feature, infrastructure, or similar element (Aimprovement@) is required by the Unified Development Ordinance to be Aconsistent@ with a document that is referenced in these regulations (Astandard specifications@), the improvement must be provided where required by the standard specifications and must conform to the standards provided in the standard specifications.

Consulting services-

see professional services

Pet shop

shall mean a facility for the display and sale of small animals, dogs, cats, fish and birds without involving commercial boarding or treating of any animal, fish or bird.

Pet supply store

shall mean stores which retail pets, pet foods, and other pet supplies.

Petitioned property

shall mean the area of real property which is the subject of an application submitted pursuant to the UDO.

Petroleum and coal products

shall mean businesses which manufacture petroleum and coal products by transforming crude petroleum and coal into usable products. The dominant process is petroleum refinement: the separation of crude petroleum into component products through techniques such as cracking and distillation.

Petroleum distribution facility

shall mean a facility for the storage of fuels or other volatile products and for their distribution to retail sales facilities or other bulk purchasers, regardless of ownership.

Pharmaceutical manufacturing

see manufacturing, light.

Pharmacy or drug store

shall mean a facility for preparing, preserving, compounding and dispensing of drugs and medicines.

Photocopy shop

a facility for the reproduction and copying of printed material or drawings. This does not include sign shops, printing establishments, or similar large-scale operations.

Photography studio

shall mean a facility for taking and processing photographs, not a bulk processing plant.

Pipeline transportation

establishments in pipeline transportation use transmission pipelines to transport products, such as crude oil, natural gas, refined petroleum products, and slurry.

Pistol Range (indoor)

shall mean an indoor facility designed and constructed for the practice and teaching of marksmanship with handguns.

Planned zoning district

shall mean a zoning district that allows for comprehensively planned developments for either single use or mixed use and permits development and zoning review as a simultaneous process.

Planning commission

shall mean the Planning Commission of the City of Fort Smith, Arkansas.

Plat, final

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I. General Requirements

27-301 General Requirements

27-301-1 Applicability.

The policies and regulations apply to land use and development. Any person proposing a land use change or new development shall comply with the procedures of this Chapter. Table 27-301.1 (Application Procedures) summarizes the application types, required meetings, acting bodies and public notices involved in the development review process between the applicants and the City. The application procedure is covered in more detail in later sections of this chapter. For procedures regarding neighborhood meeting waivers, refer to Section 27-304 and Section 27-337-5 (zoning variance).

Table 27-301.1—Application Procedures

Actions:

R = Review/Recommendation D = Decision A = Appeal • Required
 ❖ = at the discretion of the Director ■ = as described in section

Acting Bodies:

Staff = Planning and Zoning Department
 PC = Planning Commission
 BD = Board of Directors
 BZA = Board of Zoning Adjustment

Application Type	Preapp Conf.	Neighborhood Meeting	Acting Body				Notices		
			Staff	PC	BD	BZA	Pub.	Mail	Sign
Accessory Residential Use (324)			D	A					
Permits for New Construction, Major Alterations (325)			D						
Certificate of Occupancy (326)			D						
Comp. Plan/Master Land Use Map Amendment (328)	•	•	R	R	D		•	■	■
Rezoning – Planned (329)	•	•	R	R	D		•	•	•
Rezoning – Conventional (330)	•	•	R	R	D		•	•	•
Development Plan Review (331)	•	❖	D	A					
Conditional Use Permit (332)	•	•	R	D	A		•	•	•
Subdivision – Major (333)	❖		R	D	A				

Subdivision – Minor (334)			D	A				
Commercial Subdivision (335)	●		R	D	A			
Written Interpretations (336)			D	A	A			
Appeals (337)						D		●
Zoning Variance (337)	●	●	R			D		●
Subdivision Variance (516)	●	❖	R	D	A			
Home Occupations (338)	●		R	D	A			● ●
Vested Rights (339)	●		R	D	A		●	
Text Amendment (340)			R	R	D		●	
Planned Zoning District	●	●	R	D	A			

27 301-2

The board of directors may supplement, change, or amend the zoning map and the zoning regulations in the manner prescribed by A.C.A. SS 14-56-423.

27-302 Pre-Application Conference

27-302-1 When Required

A pre-application conference with the Planning and Zoning Department is required for certain development applications, as identified in Table 27-301.1 (Application Procedures) and indicated by the individual application type sections below. The purpose of the meeting is to:

- A. Review the requirements of the Unified Development Ordinance;
- ~~B. Review the requirements of the Fort Smith Comprehensive Plan;~~
- C. Discuss the nature and design of the proposed development; and
- D. Discuss the development application review and approval process.

27-302-2 Timing

The pre-application conference shall be held at least ten (10) days before the submission date unless otherwise specified by the Director. Applications must be submitted within six months of the conference date or a new conference shall be required.

27-302-3 Additional Parties

As necessary, the Planning and Zoning Department may include representatives of other departments or agencies at the pre-application conference.

27-303 Application Requirements

27-303-1 Materials

Current development application with submittal requirement instructions is available from the Planning and Zoning Department. Most applications are also available on the City website. All materials submitted in support of a development application become part of the public record and are generally not returned to the applicant(s).

27-303-2 Technical Studies

The Director may require applicants to prepare additional technical studies in support of their applications for rezoning, planned rezoning or special use permits. The cost of the study shall be the applicant's responsibility. If the applicant disagrees with the Director's decision to provide additional technical studies, it may be appealed to the Planning Commission for a final decision. No further action shall be taken to process the development application until the Planning Commission makes a final determination on the appeal.

27-303-3 Deadlines

The Planning and Zoning Department has a list of submission and revision deadlines for the various development applications available at their office. This list is also available on-line at the City's website. Failure to submit a complete or revised application on or before the deadline shall result in the City not placing the application on the scheduled Planning Commission agenda.

27-303-4 Completeness

Within three (3) business days of submittal by the applicant, a member of the Planning Staff shall review the development application to ensure that it is complete.

- A. When Complete.** An application is complete when all of the items required by the UDO and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., comprehensive plan amendment) are submitted with the appropriate fees to the Planning and Zoning Department.
- B. Return of Incomplete Applications.** Incomplete applications shall be returned to the applicant with a written description of the missing information, defects, or other problems. The Director shall take no further action on incomplete applications. Appeals of this determination are made to the Planning Commission, which is the final decision-making body. No further action shall be taken to process the application until after the Planning Commission's determination. Applications that have been returned to an applicant for revisions

When a neighborhood meeting is waived by the Director, the applicant shall mail letters to property owners within 300 feet of the ~~project site~~ **petitioned property** in lieu of a neighborhood meeting. At a minimum, the letter shall include the project description, a drawing or map of the project, and contact information. A copy of the letter shall be submitted to the planning department and a written summary of any responses from property owners.

The requirement for the neighborhood meeting will not be waived for a non-residential or multifamily project that is proposed next to single family zoned or developed property

27-304-2 Neighborhood Identification

Generally, the neighborhood shall include all parcels located within 300 feet of the boundaries of the **petitioned property parcel proposed for development**, and any homeowners association, neighborhood association or merchants association registered with the Planning and Zoning Department and located within 300 feet of the parcel.

27-304-3 Meeting Arrangements

The applicant shall be responsible for providing a meeting location and conducting the meeting at a time and place reasonable to the residents of the neighborhood. Written notice of the location and time of the meeting shall be provided by the applicant to the Planning and Zoning Department and residents of the area defined as the neighborhood at least seven (7) days prior to the meeting. The neighborhood meeting should be held at least six (6) days prior to the planning commission voting meeting.

27-304-4 Meeting Content

At the meeting, the applicant shall present a full and accurate description of the proposed development plans, describe projected impacts of development, describe plans to mitigate or off-set impacts, and facilitate a discussion of neighborhood questions and comments. The Planning Staff shall attend the meeting, but shall not be responsible for organizing the meeting or presenting information about the project.

27-304-5 Meeting Report

Following the neighborhood meeting, the applicant shall provide the Planning and Zoning Department with a mailing list of the people who attended the meeting and a written summary of the discussion and comments. All documents and materials which detail the proceedings of the neighborhood meeting shall become part of the public record for the development application and should be submitted to the Planning and Zoning Department

27-309 Public Hearing Procedures

27-309-1 Purpose

The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to express their views and opinions, present evidence relevant to the application, and to rebut evidence presented by others.

27-309-2 Rules of Procedure

The Board of Directors and Planning Commission may adopt rules of procedure for public hearings.

27-310 Decision Making

27-310-1 Action

Acting bodies shall hold regularly scheduled public hearings to receive and review public input on those items required by this Code. Decisions and/or recommendations should be rendered in a timely manner, based upon the specific requirements of the UDO and the following considerations:

- A. How well the development application/proposal conforms to the Unified Development Ordinance, **Comprehensive Plan, and** other adopted plans, design guidelines and adopted policies;
- B. The recommendations of Planning Staff and other recommending bodies;
- C. The Input of reviewing agencies and departments;
- D. Public comment and testimony received at the hearing; and
- E. The effects of the proposal on the neighborhood, area, and community-at-large.

27-310-2 Authority to Amend Development Approvals

After review of the application, pertinent information or documents, and information made part of the public record, the recommending and decision-making bodies may make changes or amendments to the applications which are deemed necessary to assure compliance with the general or specific standards expressed in these or other applicable regulations. The Director shall include a copy of the amendments with the records of decision.

27-310-3 Authority to Continue an Application

A reviewing body may continue/table an application as necessary. The continuation must provide instructions as to what information is necessary to complete the review

The Planning Commission shall hear appeals from the Director's decision in respect to the enforcement and application of this Section, and may affirm or reserve in whole or in part the decision of the Director.

1. **Process.** Any person, officer of the City, or other governmental agency not in agreement with a decision made by the director may appeal the decision within 10 (ten) days of the decision by filing with the Director a notice of appeal along with payment of the required appeal fee. The filing shall specify the reason for the appeal. The Director shall then transmit to the Planning Commission all the information on the details of the decision and reason for the appeal. This shall be done in advance of the next regularly scheduled meeting.
 3. **Stay.** An appeal puts all processing of applications on hold until the appeal process is completed.
 4. **Hearing.** The Planning Commission shall schedule a reasonable time for the hearing of the appeal or any other matter referred to it. Notice shall be published one (1) time in a local newspaper fifteen (15) days before the public hearing.
 5. **Action.** In exercising its powers, the Planning Commission, in conformity with the provisions of law, may reserve or affirm, wholly or in part, or may modify the order, requirement, decision, or determination.
 6. **Appeals.** Appeals from the decision of the Planning Commission shall be made to the Board of Directors within ten (10) days of the Planning Commission's decision.
- K. Forfeiture of Fee.** If the City revokes a mobile vending permit, the fee already paid for the permit shall be forfeited.

III Development Applications

27-328 Comprehensive Plan and Master Land Use Plan Amendment

27-328-1 Purpose

The Comprehensive Master Land Use Plan and associated neighborhood, corridor, area, and other functional plans may be revised or updated to reflect changes in the City of Fort Smith's growth, development, and planning policies. Revisions or updates may also be necessary to the Future Land Use Map based on changing neighborhoods

or social demands. The Board of Directors may establish a schedule prescribing when and how frequently the Comprehensive Plan and relevant maps shall be amended.

27-328-2 Applicant

Proposed changes to the Comprehensive Plan and Master Land Use Plan may be initiated by the Board of Directors, Planning Commission, Director, a property owner or their agent, and any other interested property owner within the area proposed for a change.

27-328-3 Applicability

Amendments to the Comprehensive Plan and Master Land Use Plan shall be required in circumstances where the proposed rezoning does not conform to the Comprehensive Plan or Master Land Use Plan classification or in circumstances where the Planning Commission or Board of Directors has determined that the change is appropriate for planning purposes.

27-328-4 Pre-Application Conference

A pre-application conference is required pursuant to Section 27-302.

27-328-5 Determination of Type

- A. Determination.** The Director shall determine whether the application is for a minor, standard, or major amendment.
- B. Major Amendments.** Major amendments shall be submitted with a complete area plan for the subject property. At the discretion of the Director, standard amendments shall require a neighborhood, area, corridor, or other plan as appropriate.
- C. Criteria.** The Director shall use the following criteria as guidelines for the classification of amendments:

Minor Amendment	Standard Amendment	Major Amendment
Property in single ownership	Property in single or multiple ownership	Property in single or multiple ownership
Typically fewer than 10 acres in size	Typically between 10 and 80 acres in size	Typically more than 80 acres in size
No text amendment	Text amendments related to specific policies that govern subject property	General text amendments

Minor Amendment	Standard Amendment	Major Amendment
Traffic generation at same level or less than existing classification	Traffic generation can be accommodated through new streets and/or minor improvements to existing streets	Traffic generation shall require substantial improvements to existing streets
No need for new or upgraded public infrastructure or services	New or upgraded public infrastructure or services paid by developer	New or upgraded public infrastructure shall service area larger than development at significant cost to community

27-328-6 Submission Requirements

The Planning Department shall provide an application form which specifies the information to be submitted. The application shall include the following:

A. ~~Comprehensive Plan-Text Amendment Only~~

1. ~~A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.~~
2. ~~A description of the reasons supporting the amendment and the special circumstances requiring the change.~~

B. ~~Comprehensive Plan-Master Land Use Plan Map Amendment~~

1. All applications
 - a. A legal description of the subject property for which the amendment is requested.
 - b. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location.
 - c. The area dimensions of the property in square feet or acres.
 - d. The name, address, and telephone number of the applicant and property owner.

- e. A description of the present use of the property, existing ~~Comprehensive Plan~~/Master Land Use Plan classification, and the existing zoning classification, along with the same information for surrounding properties.
- f. Identification of the new ~~Comprehensive Plan~~/Master Land Use Plan classification.
- g. A description of the existing road conditions and new roads to be included in the development and the effect of the proposed development on existing road and traffic conditions.
- h. The source or method for providing utility/infrastructure services to the property.
- i. A statement of the proposed density and maximum potential density (units per acre) permitted by the land use classification.
- j. Identification of any known or anticipated environmental concerns.
- k. A written description of the differences between the current and proposed ~~designations~~ classifications.

2. Standard and Major Land Use Amendments

- a. All items required in Section 27-328-6(B)(1), above.
- b. An analysis of the impact of the amendment on surrounding properties and plans in terms of:
 - (1) Potential changes to development patterns in terms of local and regional impact.
 - (2) Consistency of zoning between existing and planned uses, and
 - (3) Understanding of the need and demand for the proposed uses.
- c. An analysis of the long term development plan for the area (10-20 years) which incorporates a review of the land use, transportation, and infrastructure impact to both the City of Fort Smith and the property owner.

27-328-7 Application and Review Procedures – ~~Comprehensive Plan Amendment and Master Land Use Plan Amendment~~

- A. **Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303.
- B. **Neighborhood Meeting.**
 - 1. Minor Amendment. (Section 27-328-5 Determination of Type) The applicant shall comply with the requirements for a neighborhood meeting pursuant to Section 27-304.
 - 2. Standard and Major Amendments. (Section 27-328-5 Determination of Type) In lieu of a neighborhood meeting, the applicant shall hold at least two public meetings within or near the subject area.
 - 3. The Director shall establish general meeting requirements, including number, timing, and notice.
- C. **Planning Staff Review.** Following a determination of completeness, the Planning Staff shall review the application pursuant to Section 27-305.
- D. **Notice and Public Hearing.** After completion of the Planning Staff review and required neighborhood meetings the applicant shall be scheduled for a public hearing before the Planning Commission.
 - 1. Public Notice shall be provided pursuant to Section 27-308.
 - a. ~~Comprehensive Plan Text Amendment: Requires the following: Published notice.~~
 - b. Master Land Use Plan for individual property: Requires the following: (1) published notice, (2) mailed notice, (3) posted notice. This may also required a meeting notice as described above.
 - c. Master Land Use Plan for multiple properties: Requires the following: (1) published notice, (2) posted notice. This may also require a meeting notice as described above.
 - 2. The Planning Commission shall consider the criteria listed in Section 27-328-7(E), below, in making a recommendation.
 - 3. Following the final hearing on an application to amend the ~~Comprehensive Plan and~~ Master Land Use Plan, the Planning Commission may recommend

approval, approval as amended, or denial of the requests and shall prepare an accurate written summary of the proceedings for the Board of Directors. The Planning Commission may also table the application to a later date.

4. If the Planning Commission fails to make a recommendation on a ~~Comprehensive Plan or~~ Master Land Use Plan amendment request, the request shall default to a recommendation of denial.

E. Factors to be Considered. Approval or denial of the ~~Comprehensive Plan or~~ Master Land Use Plan amendment shall be based upon consideration of the following factors:

1. Whether events after the ~~Comprehensive Plan and~~ Master Land Use Plan adoptions have changed the character and conditions of the area so as to make the application acceptable;
2. Whether the change is consistent with the ~~goals, objectives, and policies of the Comprehensive Plan and with~~ Master Land Use Plan amendments to corridor, neighborhood, or area plans;
3. Whether the City utilities and facilities infrastructure, (such as sanitary storm sewers, water lines, police/fire protection, parks and recreation, and roads) are adequate given the type, scope, and degree of development suggested by the proposed land use plan. If utilities are not available, a determination needs to be made whether they can be reasonably extended;
4. Whether the proposed amendment would allow for a change in development of the subject property without creating adverse impacts on existing or planned surrounding uses, or would create inconsistencies with planned future land use map patterns; and

F. Action by Board of Directors. When the Planning Commission submits a recommendation to the Board of Directors and provides the reasons for such, the Board shall consider the criteria established in Sections 27-310-1 and 27-327(E) and may take any action consistent with Sections 27-310 and 27-311 including:

1. Approve the application;
2. Approve the application as amended;
3. Deny the application.

4. Where there is new material evidence received at the Board of Directors meeting that was not available to the Planning Commission, return the application to the Planning Commission for reconsideration based upon the new evidence; or
5. Where the Planning Commission has recommended denial of the application, the applicant may appeal the recommendation to the Board of Directors.

G. Appeal. An appeal of the Board of Directors decision shall be made to a court of record having jurisdiction.

27-328-8 Incorporation

Changes to the **Comprehensive Plan and** Master Land Use Plans shall be incorporated into the official version of the documents as maintained by the Planning and Zoning Department. Amendments shall be identified by date and ordinance number for the purpose of later reference.

27-329 Rezoning: Planned Development District

27-329-1 Purpose

Planned Development District (PD) rezoning is appropriate for the purpose of providing design flexibility not normally available through standard zoning procedures. Planned Development District rezoning is available in any zoning district classification except Mixed Use and Residential Historic. For example, an applicant seeking to rezone from a low density residential district to a high density residential district may apply for a RS-4 Planned Development that will allow all of the uses of the RS-4 with the flexibility of the Planned Development site planning as described below. Planned Development rezoning is intended to encourage high quality smart growth development that provides:

- A. More efficient infrastructure;
- B. Reduced traffic demands;
- C. More usable public or private open space and pedestrian connectivity;
- D. Needed housing choices and affordability;
- E. Assurance of new quality development; and
- F. Protection of the quality and integrity of existing neighborhoods.

- E. Additional Information.** Any additional information as requested by the Director, City Engineer, other City departments/agencies, Planning Commission, or Board of Directors.

27-329-6 Development Standards

- A. Revisions to Site Standards.** All applications for Planned Developments (PDs) may propose to revise site standards such as setbacks or lot sizes provided that they are reduced to not less than 25% of the underlying district standard and provided the revisions are appropriate to the location and design of the development.
- B. Density Bonus.** A density bonus of up to 15% over what is allowed by the underlying zoning district may be granted to projects that offer higher development standards and enhanced site amenities such as:
1. Provide additional landscaping and buffering beyond the minimum amounts required under the UDO design guidelines;
 2. Provide quality enhancements to the overall architectural design for the site;
 3. Utilize a unified signage design theme;
 4. Dedication of park land and open space, including recreation facilities;
 5. Maximizing traffic efficiency and connectivity while minimizing congestion by providing shared access to existing businesses and proposed land uses;

27-329-7 Application and Review Procedures for the Rezoning Application and Preliminary Development Plan

- A. Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by the UDO and on the application form are prepared and answered, and when any required supplemental or additional applications (e.g., comprehensive plan amendment) are submitted with the appropriate fee to the Planning and Zoning Department.
- B. Neighborhood Meeting.** The applicant shall comply with the requirements for a neighborhood meeting pursuant to Section 27-304.
- C. Planning Staff Review.** Following a determination of completeness, the Planning Staff shall review the application pursuant to Section 27-305.

D. Notice and Public Hearing. Following the completion of the Planning Staff review and required neighborhood meetings, the applicant shall be scheduled for a public hearing before the Planning Commission. Notice shall be provided, published, mailed and posted pursuant to Section 27-308.

E. Factors to be Considered.

1. Rezoning Application -- Approval, approval as amended, or denial of the Planned Development rezoning application shall be based on consideration of the following factors:
 - a. Compatibility with the ~~Comprehensive Plan~~, Master Land Use Plan, Master Street Plan, and appropriate Area Plans (such as corridor or neighborhood plans).
 - b. The character of the neighborhood.
 - c. The zoning and land use of adjacent and nearby properties and their compatibility with the request.
 - d. The extent to which the proposed land use is necessary for the convenience and welfare of the public and a determination that the rezoning request shall not detract from the appropriate land use, visual quality or marketability of nearby properties.
 - e. The extent to which the proposed land use would increase traffic or parking demand volumes in a negative way that could adversely affect road capacities, conditions, and safety; or create parking problems.
 - f. The extent/degree in which the proposed land use could either cause negative environmental consequences or conversely positively enhance the aesthetic environment of the surrounding properties and neighborhoods.
 - g. The extent to which public utilities and services are readily available to serve the proposed land use.
 - h. That the application shall comply with all relevant ordinance requirements.
 - i. The relative gain to the public health, safety, and welfare as compared to the hardship imposed upon the individual landowner or landowners.

2. Preliminary Development Plan –The following criteria shall be considered when reviewing the Preliminary Development Plan:

- a. The development meets the terms of the underlying zoning district and Planned Development district standards established by the provisions of Section 27-329-6.
- b. The site is capable of providing the required amount of open space (green space) for the buildings, parking and drive areas;
- c. The site plan provides for safe and easy ingress, egress and internal traffic circulation.
- d. All easements and utilities shall be at or above the engineering standards/service capacities of the approving departments and agencies;
- e. The plan is consistent with good land use planning and site engineering design principles, particularly with respect to safety and aesthetics;
- f. The architectural designs are consistent with the City of Fort Smith policies and regulations and compatible with surrounding features;
- g. The plan represents an overall development pattern that is consistent with the ~~Comprehensive Plan~~, Master Street Plan, Master Land Use Plan, and other adopted planning policies;
- h. Right-of-way, as determined by the City's Engineering Department, has been identified for dedication.
- i. Recreational and aesthetic amenities associated with the Planned Developments shall be of an equal or higher quality to what is required of normal (non-planned) developments.

F. Planning Commission Action. Following the public hearing, the Planning Commission may recommend approval, approval as amended, or denial by a majority vote of the entire Planning Commission. The Planning Commission may also table/continue the application to a later date.

Planning Commission. Significant changes may only be approved after a rehearing by the Planning Commission, which shall be subject to the same procedural requirements of the original application.

- A. Criteria.** For the purposes of this section, significant changes shall be determined by the Director and shall mean any of the following as compared to the approved Preliminary Development Plan:
1. Any changes that exceed the provisions of Section 27-329-6 or other terms specified by the Planning Commission and/or Board of Directors;
 2. Increases in density or intensity of residential uses by more than 5%;
 3. Increases in total floor area (entire plan) of all nonresidential buildings by more than 5% or 5000 square feet, whichever is less;
 4. Increases of lot coverage by more than 5%;
 5. Changes in architectural style that shall make the project less compatible with surrounding land uses;
 6. Changes in ownership patterns or stages of construction that shall lead to a different development concept;
 7. Changes in ownership patterns or stages of construction that shall impose substantially greater traffic volumes on streets and load capacities on other public facilities;
 8. Decreases in any peripheral setback of more than 5%;
 9. Decreases in areas devoted to open space of more than 5% or the substantial relocation of such areas;
 10. Changes to the traffic circulation patterns that shall affect traffic outside of the project boundaries;
 11. Modification or removal of conditions and stipulations to the preliminary development plan approval;
 12. Modifications that change, amend, or violate the terms of applicable planning policies ~~the Comprehensive Plan~~.

- A. Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by the Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (~~e.g., Comprehensive Plan Amendment~~) are submitted with the appropriate fee to the Planning and Zoning Department.
- B. Neighborhood Meeting.** The applicant shall comply with the requirements for a neighborhood meeting pursuant to Section 27-304.
- C. Staff Review.** Following a determination of completeness, the Staff shall review the application pursuant to Section 27-305.
- D. Notice and Public Hearing.** Following completion of Staff review and such neighborhood meetings as are required, the application shall be scheduled for a public hearing before the Planning Commission.
1. Notice shall be provided, published, mailed and posted pursuant to Section 27-308.
 2. The Planning Commission may recommend a change in a zoning district category which constitutes a more restrictive change than requested by the applicant.
- E. Factors to be Considered.**
1. Rezoning Application -- Approval, approval as amended, or denial of the rezoning application shall be based upon consideration of the following factors:
 - a. Compatibility with the ~~Comprehensive Plan~~, Master Land Use Plan, Master Street Plan, and applicable area plans (e.g., corridor, neighborhood).
 - b. Compatibility of the proposed development with the character of the neighborhood.
 - c. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.
 - d. The extent to which the proposed land use is reasonably necessary for the convenience and welfare of the public and shall not substantially or permanently alter the appropriate use, visual quality or marketability of nearby properties.

- e. The extent to which the proposed land use would increase or change traffic volume or parking demand in any ways that would adversely affect road capacity, road conditions, road safety, or create parking problems.
 - f. The extent to which the proposed land use could either negatively detract from or positively enhance the environment of the surrounding neighborhoods.
 - g. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use.
 - h. That the application complies with all relevant ordinance requirements.
 - j. The relative gain to the public health, safety, and welfare as compared to the hardship imposed upon the individual landowner or landowners.
2. Development Plan -- The following criteria shall be considered when reviewing the preliminary development plan:
- a. Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided?
 - b. Does the plan provide for safe and easy ingress, egress and internal traffic circulation?
 - c. Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety;
 - d. Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features;
 - e. Does the Plan represent an overall development pattern that is consistent with the ~~Comprehensive Plan~~, Master Street Plan, Master Land Use Plan, and other adopted planning policies;
 - f. The required right-of-way dedication has been identified by the City Engineering Department.

Once a preliminary plan has been approved, significant changes may be made only after approval of a revised preliminary development plan. This requires re-submittal of the application through the same procedural requirements of the original application. Changes that are not considered significant pursuant to Section 27-331-7(a) may be approved at the Director's discretion. Disapproval of the changes may be appealed to the Planning Commission.

B. Criteria. For the purposes of this section, significant changes shall be determined by the Director. Significant changes shall mean any of the following, provided they are still within the approved standards of the applicable zoning district.

1. Increases in density or intensity of residential uses by more than 5%;
2. Increases in total floor area (entire plan) of all non-residential buildings by more than 5% or 5000 square feet, whichever is less;
3. Increases of lot coverage by more than 5%;
4. Changes to the architectural style that shall make the project inconsistent with previous approvals;
5. Changes in ownership patterns or stages of construction that shall lead to a different development concept;
6. Changes in ownership patterns or stages of construction that shall impose substantially greater volumes on streets and load capacities on public facilities;
7. Decrease of more than 5% to any perimeter setbacks;
8. Decrease of more than 5% in areas devoted to open space or the substantial relocation of such areas;
9. Changes in traffic circulation patterns that will affect traffic outside of the project boundaries;
10. Modification or removal of conditions and stipulations to the preliminary development plan approval; or
11. Modifications that change, amend, or violate the terms of applicable planning policies ~~the Comprehensive Plan.~~

- b. The proposed land use shall not adversely affect nearby properties.
- c. The size and shape of the site in relation to the size, shape and arrangement of structures (maximum lot coverage and applicable setbacks) meets the minimum requirements of this chapter.
- d. The entrances and exits, internal street systems, off-street parking and loading facilities and pedestrian walkways are adequate for the proposed purpose.
- e. Nearby properties shall be protected from fumes, lighting, noise, glare, dust and odor.
- f. The landscaping and screening required to meet the intent of this section shall be provided.
- g. Open space shall be maintained by the property owner.
- h. Signage shall conform to the requirements of this chapter.

2. Development Plan

- a. The site is capable of accommodating the buildings, parking areas and driveways while retaining the required amount of open space;
- b. The plan provides for safe and efficient ingress, egress and internal traffic circulation;
- c. All easements and utilities shall meet the requirements of the approving departments and agencies;
- d. The plan is consistent with good land use planning and site engineering design principles, particularly with respect to safety and aesthetics;
- e. The architectural designs are consistent with the City of Fort Smith's policies and regulations and compatible with surrounding land use features;
- f. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, Master Land Use Plan, and Master Street Plan, and any other adopted planning policies;

- n. Proposed drainage facilities, including approximate structure sizes and types;
 - o. Location and purpose of easements, including existing and proposed public and private water supply and sanitary sewer lines. Show existing franchise utilities. Identify book and page where applicable;
 - p. Proposed buildings and other development features where applicable on commercial, industrial, and multi-family developments.
- 3. Application Fee
 - 4. Technical studies pursuant to Section 27-303-2.
 - 5. Other information as specified on the application form or as requested by the Director, other departments or agencies, the Planning Commission, or the Board of Directors.

E. Application and Review Procedures

- 1. Determination of Completeness. Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by the Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., Comprehensive Plan Amendment) are submitted with the appropriate fee to the Planning and Zoning Department.
- 2. Staff Review. Following a determination of completeness, the Staff shall review the application pursuant to Section 27-305.
- 3. Public Hearing. Following completion of Staff review, the application shall be scheduled for a public hearing before the Planning Commission.

F. Planning Commission Action. Following the public hearing, the Planning Commission may approve, approve as amended, or deny the application. The Planning Commission may also continue the application to a date certain.

- 1. Approve. Approval of the preliminary plat shall be granted by the Planning Commission when all applicable conditions of this Chapter are met.
- 2. Approve as Amended. The Planning Commission may require amendments to a preliminary plat prior to approval. This may include approval of completed engineering documents following plat approval provided stipulations for approval are provided. Upon approval with amendments, the Planning Commission shall state the amendments required and transmit them in writing to the applicant.

27-336-2 Request for Interpretation.

A form to make a request for interpretation shall be made available to the public. Completed forms shall be submitted to the Director.

27-336-3 Interpretation by Director

The Director shall:

- A. Review and evaluate the request in light of the Unified Development Ordinance, Zoning Map, the Comprehensive Plan, and any other relevant information;
- B. Consult with other Staff as necessary and render an opinion;
- C. The interpretation shall be provided to the applicant in writing.

27-336-4 Official Record.

The Director shall maintain an official record of interpretations which shall be available for public inspection during normal business hours.

27-336-5 Appeals.

Appeals to the Director's interpretation of the terms of Unified Development Ordinance may be made to the Board of Zoning Adjustment. Appeals to the Director's interpretation of the Master Land Use Plan or other maps shall be made to the Planning Commission.

27-337 Appeals and Variances

27-337-1 Appeals of Administrative Determinations

The Planning Commission shall hear appeals from the decision of the administrative officers in respect to the enforcement and application of this chapter, and may affirm or reserve in whole or in part the decision of the administrative officer.

- A. **Process.** Any person, officer of the City, or other governmental agency not in agreement with a decision made by the Director may appeal the decision within 30 days of the decision by filing with the Director a notice of appeal along with a payment of the required appeal fee. The filing shall specify the reason for the appeal. The Director shall then transmit to the Planning Commission all the information on

- A. Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., Comprehensive Plan Amendment) are submitted with the appropriate fee to the Planning and Zoning Department.
- B. Neighborhood Meeting.** Even though a neighborhood meeting is not required, pursuant to Section 27-304, the Planning Commission and Planning and Zoning Staff would encourage the applicant to meet with property owners who may be affected by the proposed application.
- C. Staff Review.** Following a determination of completeness, the Staff shall review the application pursuant to Section 27-305.
- D. Notice and Public Hearing.** Following completion of Staff review the application shall be scheduled for a public hearing before the Planning Commission.
1. Notice shall be provided pursuant to Section 27-308. Notice shall be posted and mailed.
 2. The Planning Commission shall consider the criteria listed in Section 27-338-4(F), below in making a recommendation.
- 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.

- A. Claimant's and claimant's agent/attorney's name, address, phone number , e-mail address and fax number.
- B. Description of the development claimed to be vested, including: location, parcel id or tax number, existing and proposed structures, uses, and all incidental improvements such as utilities, road and other infrastructure.
- C. A list of all governmental approvals that have been obtained and/or approved, including those from state or federal agencies, and the date of each final approval. Copies of the approvals shall be attached to the application. If amendments or conditions were included with any approval, date on which the conditions were satisfied or are expected to be satisfied.
- D. A list of any anticipated approvals and their anticipated dates of approval.
- E. Specification of the nature and extent of the work or use in progress or completed, including date of commencement for each portion (e.g., grading, foundation, structural work, etc.); portions completed and date completed; status of each portion on date of claim; and amount of money expended on each portion whether completed or in progress.
- F. A list of the amount and nature of any liabilities or expenditures incurred that are not described above, the date(s) incurred, and a list of any remaining liabilities to be incurred with the expected date.
- G. A statement of the total expected cost of the development or use.
- H. A statement of the anticipated completion date for the total development.
- I. Other information as requested by the Director, other agencies or departments, the Planning Commission, or the Board of Directors.
- J. Appropriate filing fee.

27-339-5 Application and Review Procedures

- A. **Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., Comprehensive Plan Amendment) are submitted with the appropriate fee to the Planning and Zoning Department.

- A. **Staff Report.** The Director or Planning Staff shall prepare a Staff report that reviews the proposed amendment in light of the **Comprehensive Plan**, Master Land Use Plan, Master Street Plan, other adopted plans, and the terms of the Unified Development Ordinance.
- B. **Planning Commission Review.** The Director shall provide a copy of the report to the Planning Commission prior to the scheduled public hearing.
- C. **Notice.** Notice of the proposed amendment shall be provided pursuant to Section 27-308. Notice shall be published in a newspaper of general circulation in the City of Fort Smith.
- D. **Consideration.** The Planning Commission shall take into account all factors that it deems relevant, including consistency of the proposed amendment with the **Comprehensive Plan**, Master Land Use Plan, Master Street Plan, and other adopted plans, as well as whether the proposed amendment serves to carry out the purposes of the Unified Development Ordinance, and the factors established in Section 27-310.
- E. **Planning Commission Action.** Following the public hearing, the Planning Commission may recommend approval, approval as amended, or denial of the proposed amendment.
 - 1. The Planning Commission's recommendation shall be certified to the Board of Directors.
 - 2. The Board of Directors shall consider the Planning Commission's recommendation at the second regularly scheduled meeting following action by the Planning Commission.
 - 3. If the Planning Commission fails to make a recommendation on the amendment, it shall be deemed to have made a recommendation of denial. At that point the amendment shall be forwarded to the Board of Directors with no recommendation having been made.
- F. **Action by the Board of Directors.** When the Planning Commission certifies a recommendation to the Board of Directors, the Board shall consider the criteria established in section 27-340-3(E) and take any action consistent with its authority, including:
 - 1. Approving the amendment;
 - 2. Approving the amendment as amended;
 - 3. Denying the amendment;

Application	Appeal Entity		
	Planning Commission	Board of Directors	Court of Jurisdiction
Rezoning		X	X
Comp Plan & Master Land Use Amendment		X	X
Conditional Use		X	X
Home Occupation		X	X
Accessory Residential Use	X	X	X
Zoning Variance			X
Subdivision Variance		X	
Driveway Variance		X	
Preliminary Development Plan Amendment - Major			X
Preliminary Development Plan Amendment - Minor	X		X
Development Plan Review	X	X	X
Subdivision Plat – Major			X
Subdivision Plat – Minor	X		X
Text Amendment		X	X
Written Interpretation of UDO	X	X	X
Vested Rights		X	X

27-341 Planned Zoning District

27-341-1 Purpose

- A.** The process is deemed necessary to assure control of certain development while providing the applicant a means of gaining commitment without undue financial risk. Specifically, the purposes of this article are to encourage:
1. Comprehensive and innovative planning and design of diversified yet harmonious development consistent with the comprehensive plan;
 2. Better utilization of sites characterized by special features of geographic location, topography, size, or shape;
 3. Flexible administration of general performance standards and development guidelines;
 4. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas to preserve and enhance the neighborhood through the use of enhanced site design, architecture, landscaping, and signage.
 5. Developments that utilize design standards greater than the minimum required by the UDO.

27-341-2 Submission Requirements.

The director shall prepare an application form which specifies the information to be submitted in support of a planned zoning district. This shall include at a minimum:

1. Pre-application conference is required pursuant to Section 27-302.
2. Application Fee
3. A project booklet, submitted graphically and in narrative form, addressing as many items as applicable. In no instance shall the design requirements and development standards be less than those found in Chapters 27-200, 27-500, 27-600, and 27-700.

- A. **Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by the Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (~~e.g., Comprehensive Plan Amendment~~) are submitted with the appropriate fee to the Planning and Zoning Department.

- B. **Neighborhood Meeting.** The applicant shall comply with the requirements for a neighborhood meeting pursuant to Section 27-304.

- C. **Staff Review.** Following a determination of completeness, the Staff shall review the application pursuant to Section 27-305.

- D. **Notice and Public Hearing.** Following completion of Staff review and such neighborhood meetings as are required, the application shall be scheduled for a public hearing before the Planning Commission.
 - 1. Notice shall be provided, published, mailed and posted pursuant to Section 27-308.
 - 2. The Planning Commission may recommend a change in a zoning district category which constitutes a more restrictive change than requested by the applicant.

- E. **Factors to be Considered.**
 - 1. Rezoning Application -- Approval, approval as amended, or denial of the rezoning application shall be based upon consideration of the following factors:
 - a. Compatibility with the ~~Comprehensive Plan~~, Master Land Use Plan, Master Street Plan, and applicable area plans (~~e.g., corridor, neighborhood~~).
 - b. Compatibility of the proposed development with the character of the neighborhood.
 - c. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.
 - d. The extent to which the proposed land use would increase or change traffic volume or parking demand in documented evidence or engineering data, road conditions, road safety, or create parking problems in combination with any improvements that would mitigate these adverse impacts.

- e. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use in combination with any improvements that would mitigate these adverse impacts.
 - f. That the application complies with all relevant ordinance requirements (for example 27-200, 27-500, 27-600, and 27-700).
2. Project Booklet -- The following criteria shall be considered when reviewing the project booklet:
- a. Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided?
 - b. Does the plan provide for safe and easy ingress, egress and internal traffic circulation?
 - c. Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety;
 - d. Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features;
 - e. Does the Plan represent an overall development pattern that is consistent with the ~~Comprehensive Plan~~, Master Street Plan, Master Land Use Plan, and other adopted planning policies;
 - f. The required right-of-way dedication has been identified by the City Engineering Department.
 - g. All easements and utilities shall meet the requirements of the approving departments and agencies.
 - h. Articulate how the plan minimizes or mitigates the impact of increased traffic both in volume and vehicle size.
 - i. Articulate how the plan exceeds the UDO requirements. (ex. increased landscaping, increased high quality materials, etc.)

Once a PZD has been approved, significant changes may be made only after approval of a revised PZD. This requires re-submittal of the application through the same procedural requirements of the original application. Changes that are not considered significant pursuant to Section 27-341-4(a) may be approved at the Director's discretion. Disapproval of the changes may be appealed to the Planning Commission.

A. Criteria. For the purposes of this section, significant changes shall be determined by the Director. Significant changes shall mean any of the following, provided they are still within the approved standards of the applicable zoning district.

1. Increases in density or intensity of residential uses by more than 5%;
2. Increases in total floor area (entire plan) of all non-residential buildings by more than 5% or 5000 square feet, whichever is less;
3. Increases of lot coverage by more than 5%;
4. Changes to the architectural style that shall make the project inconsistent with previous approvals;
5. Changes in ownership patterns or stages of construction that shall lead to a different development concept;
6. Changes in ownership patterns or stages of construction that shall impose substantially greater volumes on streets and load capacities on public facilities;
7. Decrease of more than 5% in areas devoted to open space or the substantial relocation of such areas;
8. Changes in traffic circulation patterns that will affect traffic outside of the project boundaries;
9. Modification or removal of conditions and stipulations to the planned zoning district approval; or
10. ~~Modifications that change, amend, or violate the terms of applicable planning policies the Comprehensive Plan.~~

B. Approval. Any changes that seek to vary the standards of the applicable district and cannot be approved through paragraph (A) above must either be approved by the Planning Commission through a Planned Zoning District rezoning application or through a variance request to the Board of Zoning Adjustment.

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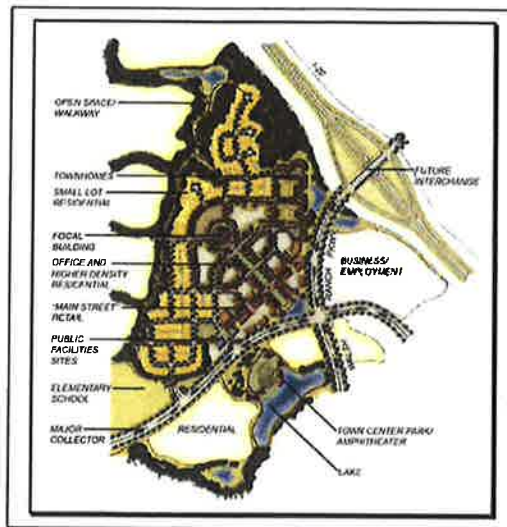
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27-401 Comprehensive Plan Master Land Use Plan/Zoning District Conversion Chart

A. **Chart.** The following chart describes the relationship between the **Fort Smith Comprehensive Plan Master Land Use Plan**, zoning districts included in the

A. Purpose. To provide for residential and commercial mixed use developments to serve the community and provide flexibility and innovation in layout and development designs. The RMU Zoning District is appropriate for the Commercial Neighborhood, General Commercial, Mixed Use Residential and Residential Attached classifications of the Master Land Use Plan. Where only single family detached development is proposed, the RMU District is appropriate in a Residential Detached Master Land Use Plan classification. The CEMU district is appropriate in the Mixed Use Employment, Commercial Neighborhood, General Commercial classifications of the Master Land Use Plan.



B. Minimum Development Size. Mixed use development sites shall be two (2) acres in size unless two or more of the following conditions are met:

1. The proposed Mixed Use development site is consistent with the **City of Fort Smith's Comprehensive Plan and Master Land Use Plan**.
2. The site is contiguous to or across the street from a location that has already been developed as a mixed use project pursuant to the Unified Development Ordinance regulations. As such, the expansion of the Mixed Use development would contribute to the maintenance of the amenities and land values of the neighboring properties.
3. The site is contiguous or across the street from property that has already been developed for commercial purposes and would not create conditions leading to strip (linear) commercial uses or encroachment into an established residential area, or
4. The land use would not impose any adverse impacts on the public facilities, utilities, transportation, or storm drainage systems of adjoining properties.

C. Permitted Uses

regulations. A violator shall be deemed to be the owner of the property, the agent of the owner authorized to be responsible for the property, or the occupant of the property. Citations may be directly issued to the occupant, lessee, or person having immediate beneficial use of the property. The non-occupant owner or agent responsible for the property each has the duty to maintain the property in compliance with these regulations. Written notice shall be given to the non-occupant owner, agent, or occupant prior to the issuance of any citation.

27-445-8 Definitions

Accessory building or use

shall mean a building or use which is incidental and subordinate to and serves the principal building or principal use.

Apartment house

shall mean any building or portion thereof which is designed, built, rented, leased or let to be occupied as three (3) or more dwelling units or apartments or which is occupied as a home or place of residence by three (3) or more families living in independent dwelling units.

Authorized agent

shall mean an architect, attorney, builder, developer or other person or persons legally empowered to act on behalf of other persons.

Board of adjustment

shall mean the board of zoning adjustment of the city.

Certificate of land use compliance

shall mean official certification that the property usage conforms to the provisions of these regulations and may be used or occupied. Unless a certificate is issued by the city administrator, or designated agents, of the city, the property cannot be used or occupied.

Church

shall mean a place of worship and religious training, including accessory housing facilities such as a rectory.

City

shall mean the City of Fort Smith, Arkansas.

City administrator

shall mean the city administrator of the city.

Commission

shall mean the city planning commission.

Comprehensive plan

shall mean the plan developed by the City for the purpose of bringing about an orderly, coordinated, and physical development of the City. Any reference to the comprehensive plan in the UDO shall be by express reference only. Terms or phrases in the UDO which do not expressly reference the comprehensive plan, including but not limited to "adopted plans," "adopted policies," "area plans," "functional plans," "planning policies," or "policies," shall not be intended to refer to the comprehensive plan.

27-445- Purpose

The process is deemed necessary to assure control of certain development while providing the applicant a means of gaining commitment without undue financial risk. Specifically, the purposes of this article are to encourage:

1. Comprehensive and innovative planning and design of diversified yet harmonious development ~~consistent with the comprehensive plan~~;
2. Better utilization of sites characterized by special features of geographic location, topography, size, or shape;
3. Flexible administration of general performance standards and development guidelines;
4. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas to preserve and enhance the neighborhood through the use of enhanced site design, architecture, landscaping, and signage.
5. Developments that utilize design standards greater than the minimum required by the UDO.

27-445- Submission Requirements.

The director shall prepare an application form which specifies the information to be submitted in support of a planned zoning district. This shall include at a minimum:

1. A pre-application conference with the Planning and Zoning Department is required. The pre-application conference shall be held at least ten (10) days before the submission date unless otherwise specified by the Director.
2. Application Fee
3. A project booklet, submitted graphically and in narrative form, addressing as many items as applicable. In no instance shall the design requirements and development standards be less than those found in Chapters 27-445
 - a. Reason (need) for requesting the zoning change and response to how the proposal fulfills the intent/purpose of the Planned Zoning District.
 - b. Current ownership information (landowner/applicant and representative of applicable) and any proposed or pending property sales.
 - c. Comprehensive description of the scope, nature, and intent of the proposal.

- d. General project concept:
 - i. Street and Lot Layout
 - ii. Site plan showing proposed improvements
 - iii. Buffer areas, screening, and landscaping
 - iv. Storm water detention areas and drainage
 - v. Undisturbed natural areas
 - vi. Existing and proposed utility connections and extensions
 - vii. Development and architectural design standards
 - viii. Building elevations
 - ix. Proposed signage (type and size)
- e. Proposed development phasing and time frame
- f. Identify land use designations.
- g. Identify area and bulk regulations.
- h. A chart comparing the proposed planned zoning district to the current zoning district requirements (land uses, setbacks, density, height, intensity, bulk and area regulations, etc.)
- i. A chart comparing the proposed land uses and the zoning district(s) where such land uses are permitted.
- j. A chart articulating how the project exceeds the UDO requirements (ex. increased landscaping, increased high quality materials on the façade, etc.).
- k. Statement of how the development will relate to existing and surrounding properties in terms of land use, traffic, appearance, height, and signage.
- l. A traffic study when required by the Engineering Department (consult with staff prior to submittal)
- m. Statement of availability of water and sewer (state size of lines).

27-445- Application and Review Procedures

- A. Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness. An application is complete when all of the items required by the Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., Comprehensive Plan Amendment) are submitted with the appropriate fee to the Planning and Zoning Department.
- B. Neighborhood Meeting.** A neighborhood meeting is encouraged.
- C. Staff Review.** Following a determination of completeness, the Staff shall review the application.

- D. Notice and Public Hearing.** Following completion of Staff review and any neighborhood meetings, the application shall be scheduled for a public hearing before the Planning Commission.
1. Notice shall be provided, published, mailed and posted pursuant to Section 27-445.
 2. The Planning Commission may recommend a change in a zoning district category which constitutes a more restrictive change than requested by the applicant.

E. Factors to be Considered.

1. Rezoning Application -- Approval, approval as amended, or denial of the rezoning application shall be based upon consideration of the following factors:
 - a. Compatibility with the ~~Comprehensive Plan~~, Master Land Use Plan, Master Street Plan, and applicable area plans (e.g., corridor, neighborhood).
 - b. Compatibility of the proposed development with the character of the neighborhood.
 - c. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.
 - d. The extent to which the proposed land use would increase or change traffic volume or parking demand in documented evidence or engineering data, road conditions, road safety, or create parking problems in combination with any improvements that would mitigate these adverse impacts.
 - e. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use in combination with any improvements that would mitigate these adverse impacts.
 - f. That the application complies with all relevant ordinance requirements (for example 27-445).
2. Project Booklet -- The following criteria shall be considered when reviewing the project booklet:
 - a. Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided?
 - b. Does the plan provide for safe and easy ingress, egress and internal traffic circulation?
 - c. Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety;

- d. Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features;
- e. Does the Plan represent an overall development pattern that is consistent with the Comprehensive Plan, Master Street Plan, Master Land Use Plan, and other adopted planning policies;
- f. The required right-of-way dedication has been identified by the City Engineering Department.
- g. All easements and utilities shall meet the requirements of the approving departments and agencies.
- h. Articulate how the plan minimizes or mitigates the impact of increased traffic both in volume and vehicle size.
- i. Articulate how the plan exceeds the UDO requirements. (ex. landscaping, high quality materials, signage, screening, and lighting etc.)

F. Planning Commission Action. Following the public hearing, the Planning Commission may recommend approval, approval as amended, or denial. The Planning Commission may also continue the application to a date certain.

- 1. The Planning Commission shall certify recommendations of approval or approval as amended to the Board of Directors for further procedure in conformity with A.C.A. tit. 14, ch. 56, subch. 4[§ 14-56-401 et. seq.]

The Planning Commission may impose a time limit for the development as described in the project booklet.

- 2. The Planning Commission's certified recommendations shall be automatically placed on the agenda of the Board of Director's second regularly scheduled meeting of the month following action by the Planning Commission.

G. Appeal. Appeals from the decisions of the Planning Commission shall be as follows:

- 1. If the Planning Commission denies a rezoning request or project booklet so that no recommended action has been certified to the Board of Directors, the applicant shall have the right to file a request for review of the Planning Commission's decision with the Board of Directors.
- 2. The request for review shall be initiated in the following manner or be considered waived:
 - a. Filing a written notice of such appeal with the office of the City Clerk, or the Clerk's designated agent, during normal business hours.

9. Modification or removal of conditions and stipulations to the planned zoning district approval; or
 10. Modifications that change, amend, or violate the terms of the applicable planning policies-Comprehensive Plan.
- B. **Approval.** Any changes that seek to vary the standards of the applicable district and cannot be approved through paragraph (A) above must either be approved by the Planning Commission through a Planned Zoning District rezoning application or through a variance request to the Board of Zoning Adjustment.
 - C. **Appeal.** Appeal of the Director's determination of whether changes are significant may be taken to the Planning Commission, whose decision shall be final. No further action shall be taken to process the application pending the Planning Commission's determination.

27-445-16 Use regulation types of uses

The ETJ use matrix, section 27-445-28 is based on the American Planning Association's Land Based Classification System (LBCS), as interpreted by these regulations and the city planning department. All of the use categories listed in the use table are defined in section 27-445-8, definition of uses of the Fort Smith Municipal Code or the Land Based Classification System of the American Planning Association.

- (1) *Classifications.*
 - a. Uses permitted by right. A "P" indicates that a use is allowed by right in the respective district. Such uses are subject to all other applicable regulations.
 - b. Uses permitted conditionally. A "C" indicates that a use is allowed conditionally, subject to the issuance of a conditional use permit.
 - c. Accessory uses. An "A" indicates that a use is typically permitted as an accessory use.
 - d. Blank. A blank cell in the use table indicates that a use category is not allowed in the indicated district.
- (2) *Unlisted uses.* The director shall determine whether or not an unlisted use is part of an existing use category. Any interpretation made by the planning department or planning commission shall be deemed final regardless of the contents of the LBCS.

27-445-17 Dimensional Standards

- (1) *Lot area.*
 - (a) *Measurement.* Lot area is measured as the amount of net land area contained within the property lines of a lot or parcel, not including right-of-way for streets.
 - (b) *Utilities.* Utilities using land or an unoccupied building covering less than one thousand (1,000) square feet of site area are exempt from minimum lot area standards.
- (2) *Lot width.* Lot width is the width of the lot as measured at the front setback line.

4. Antenna for reception only of radio and television signals (transmitting antenna, towers, and other structures on which receiving antenna are located are not exempt from height or other setback requirements).
- (d) The construction, maintenance, or establishment of any building, tree, smokestack, chimney, flagpole, wire, tower, or other structure or appurtenance thereto, which may constitute a hazard or obstruction to safe air navigation, landing, or take-off of aircraft near an airport, is prohibited. Regulations adopted by the Federal Aviation Agency (FAA) shall be minimum standards. No request shall be approved if it violates FAA standards.
- (8) *Building separation.* Required building separation shall be determined by the Arkansas Fire Prevention Code.
- (9) *Density.* Density is measured by net lot area, not including street or other dedicated right-of-way(s).

27-445-18 Street Hierarchy

Street classification as used in these regulations is as follows, from lowest to highest:

- (1) Residential;
- (2) Residential collector, restricted parking;
- (3) Residential collector;
- (4) Major collector;
- (5) Minor arterial;
- (6) Major arterial;
- (7) Boulevard;
- (8) Industrial street.

27-445-19 Extraterritorial open zone (ETJ Open-1) created

All real property identified in the extraterritorial zoning jurisdiction as defined in section 27-445-2 of these regulations is hereby zoned extraterritorial open zone (ETJ Open-1). The following zoning district regulations shall apply to all properties zoned as ETJ Open-1:

- (1) *Characteristics.* A zone to protect the undeveloped areas within the city's extraterritorial zoning jurisdiction from incompatible land use or other specific uses that may constitute a nuisance to the residents therein or uses that may create an endangerment to the health, safety, or general welfare of the jurisdiction's population. The ETJ Open-1 zone designation may be utilized as a zoning classification for properties until a distinct land utilization pattern is developed in keeping with the city's ETJ Master Land Use Plan comprehensive plan and other land use policies.
- (2) *Permitted uses.*
 - a. General uses:
 1. Single-family homes;
 2. Two-family homes (duplexes);
 3. Nurseries and greenhouses, private and commercial;
 4. Truck farms;
 5. Private or public golf courses;

must first be obtained before the use, expansion, conversion, change or alteration can be used or occupied.

27-445-31 Adoption of land use plan

The land use map (May 6, 2003) for the extraterritorial jurisdiction area is hereby adopted by the board of directors. Three (3) copies have been and now are filed in the office of the clerk of the city.

27-445-32 ETJ land use/zoning district conversion chart

TABLE INSET:

ETJ Land Use Classifications and Descriptions	Zoning District
Residential	
LDR low density residential Residential development - consistent with the comprehensive plan and consistent with adjacent/surrounding uses. Shall be located where public utilities exist or expect to be expanded over the next twenty (20) years. Development of specific sites will depend upon the availability of utilities and the maintenance of an acceptable level of service of roads and other public facilities and services.	Rural residential (RR) Residential estate (RE) Residential single-family low density (RS-1)
Commercial	
NC neighborhood commercial Commercial and service uses to serve the daily convenience needs of the surrounding residential neighborhood; small districts located within walking distance from the edge of surrounding residential areas	Commercial neighborhood compatible (C-1) Commercial light (C-2)
LCO light commercial office Locations beyond the central area of the city, primarily along arterial or major collector streets, which will accommodate offices or laboratories for professional persons and related uses	Commercial moderate (C-3)
Industrial	
LI light industrial Light manufacturing, research technology, processing, storage, wholesaling, and distribution under high environmental performance standards. Commercial and service uses in support of industrial uses are also permitted.	Industrial light (I-1)
I industry	Industrial

27-501 Purpose and Findings

27-501-1 The City finds and determines that:

- A. This Chapter regulates land subdivision for residential, commercial, mixed, and industrial uses in a manner that ensures sound community growth while safeguarding the interests of the property owners, residents, developers surrounding neighborhoods, and the City.
- B. This Chapter prevents excessive governmental costs and provides consistency for the owner involved in subdividing or developing land.
- C. The development of property impacts public facilities adjacent to or in reasonable proximity to the proposed development, and compliance with these regulations mitigates the impact on the public services based upon the development to be regulated.
- D. These regulations provide flexible rules with positive values that are a guide to development and serve to protect all parties affected by land development.

27-501-2 The Purpose of this Chapter is:

- A. The Subdivision Regulations apply to all divisions and development (as defined in A.C.A. § § 14-56-417(a)(2)) of real property lying within the corporate limits of the City of Fort Smith, Arkansas, as now or hereafter established, and the planning area;
- B. To provide for adequate light, air and privacy, to ensure safety from fire, flood, and other physical dangers, as well as to prevent overcrowding of the land;
- C. To implement the **Comprehensive Plan**, Master Street Plan, Bikeway and Trails Plan;
- D. To insure proper legal descriptions, monumenting of land, and adequate and accurate platting and recording of land subdivisions;
- E. To insure that public improvements are available with sufficient capacity to serve the proposed subdivision, property development, and the general community.
- F. The Subdivision Regulations are adopted under the authority granted by A.C.A. tit. 14, ch. 56, subch. 4 [§ 14-56-401 et seq.] and amendments thereto, and all other delegation of authority to the City by the Arkansas General Assembly.

27-503 Site Layout and Design

27-503-1 Blocks

A. Generally

The length, width and shape of blocks shall be designed consistent with the following criteria:

1. Provisions shall be made for adequate building sites suitable to the special needs of the type of uses contemplated.
2. Lot sizes and setbacks shall conform to the zoning district regulations (Chapter 27-400).
3. Blocks shall provide sufficient width for two (2) tiers of lots of appropriate depth.

B. Block Length - Generally

Blocks shall not exceed the length established in Table 27-503-1A for each Land Use Category established in the **Comprehensive Plan Master Land Use Plan**. Block length is measured in feet from the edge of each intersection.

Table 27-503-1A Maximum Block Lengths, Generally

	Generally
Rural	Not applicable
Residential Detached	1,000 feet
Residential Attached	1,000 feet
Institutional	Not applicable
Commercial Neighborhood	1,000 feet
General Commercial	Not applicable
Regional Center	Not applicable
Office Research and Light Industrial	Not applicable
Moderate Industrial	Not applicable
Industry	Not applicable
Mixed-Use Residential	1,000 feet
Mixed Use Employment	Not applicable

C. Block Length - Traditional Neighborhood Development

Maximum Block Lengths for a Traditional Neighborhood Development (TND) option is 300 feet. Block length is measured from the edge of each intersection, in feet.

27-503-2 Lots

27-507 Water

27-507-1 Applicability

No water improvement facilities shall be constructed, altered, extended or reconstructed within the City of Fort Smith or the planning jurisdiction of the City of Fort Smith without first having the approval of the City of Fort Smith Utility Department and any required state agencies. All such construction shall meet the requirements included herein.

27-507-2 General Requirements and Design Criteria

Potable water systems shall comply with the *City of Forth Smith, Minimum Water Design Standards*, which document is hereby incorporated by reference and made a part of this Ordinance.

27-508 Reserved

27-509 Trails and Greenways

27-509-1 Applicability

Subdivisions that include at least 100 lots shall include trails and/or bikeways that conform to the requirements of this section.

27-509-2 Trails

Trails may be included as part of the Parks and Open Space required by Section 27-508. Trail easements shall be a minimum of 20 feet in width. The construction and maintenance of trails shall conform to the City's Trails and Greenways Master Plan.

27-509-3 Bikeways

Bikeways shall be provided consistent with the Bikeway Plan.

27-510 Resource Conservation

Purpose: this section encourages the preservation of existing features that add value to development or to the local government as a whole, such as trees, historic spots, viewsheds, natural areas, riparian corridors, hillsides, and similar irreplaceable assets, to be preserved in the design of a subdivision or development. This section implements the following policies ~~of the Comprehensive Plan~~:

- Minimize impermeable surfaces of all developments to help retain and drain water on site. All development needs to address stormwater event loading on-site and downstream. This is called total maximum daily loading or TMDL's.

Comprehensive Plan/Master Land Use Plan Amendment	\$ 350 \$ 100 when submitted with a rezoning application
Annexation	\$ 350
Temporary Revocable License	\$ 150
Street/Right-of-way/Easement Closing	\$ 150