

ORDINANCE NO. 1-21**AN ORDINANCE AMENDING THE 2019 UNIFIED DEVELOPMENT  
ORDINANCE OF THE CITY OF FORT SMITH**

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**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 amendment and recommended on December 8, 2020, that changes be made; and,

**WHEREAS**, three (3) copies of January 2021 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 January 2021 Amendments to the Unified Development Ordinance include amendments to add language to the Commercial and Transitional Design Standards regarding building projections, amend the Application Appeals Chart, expand UDO permitted trees, shrubs, and grasses, amend the existing definition for shopping center, add a new definition for shopping center, amend the shopping center use in the land use matrix, and amend parking requirements for shopping centers; and,

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

**SECTION 1:** The January 2021 Amendments to the Unified Development are hereby adopted.

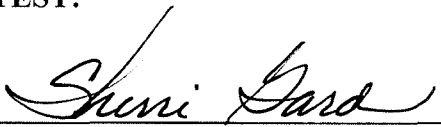
**SECTION 2:** The codifier shall codify the adopted amendments by amending existing sections

and by adding new sections of the UDO at the discretion of the codifier.

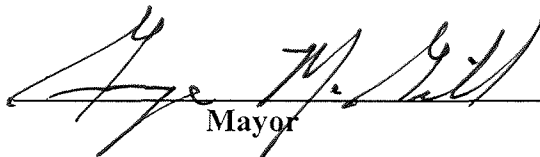
**SECTION 3:** It is hereby found and determined that the adoption of the amendments to the Unified Development Ordinance are necessary to alleviate an emergency created by the lack of regulation of uses of property within the City of Fort Smith so that the protection of the health, safety and welfare 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 5<sup>th</sup> DAY OF January, 2021.

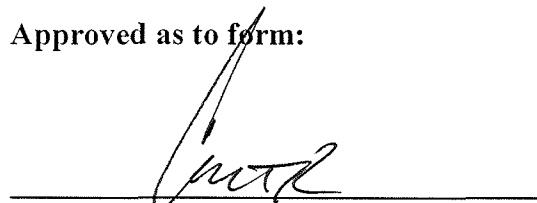
ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED:

  
\_\_\_\_\_  
Mayor

Approved as to form:

  
\_\_\_\_\_  
Publish One Time

- b. For roof-mounted equipment, the screening shall be architecturally incorporated into the roof design and shall consist of materials that are visually compatible with the supporting building.
5. Barbed wire, sheet metal, wood slat, split log, tarps or other nonconventional fencing material are prohibited.

6. Transitional and Commercial Building Elements

- a. The main entrance of a building should face a pedestrian plaza or space with a direct pedestrian connection to the street.
- b. Buildings should be located in such a manner as to minimize conflicts between pedestrians and automobiles
- c. Buildings should be oriented primarily to the street, with street-oriented retail or service spaces.
- d. Retail shops at street level should have direct access to and from the sidewalk.
- e. Entrances should be easily identifiable as primary points of access to buildings.
- f. Corner buildings at gateways or prominent intersections should be designed to emphasize the gateway or intersection location. This may include major architectural expression in the façade, roof form and/or massing, such as:
  - 1. larger bulk
  - 2. tower forms
  - 3. peaked roofs
  - 4. over-sized windows
  - 5. sloped parapets and appurtenances

g. Building Projections. All building projections, including, but not limited to, chimneys, flues, vents, gutters and down spouts, shall match the permanent color of the surface from which they project or match the building's trim color.

**27-340-5 Application Appeals Chart**

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Application	Appeal Entity		
	Planning Commission	Board of Directors	Court of Jurisdiction
Rezoning		X	X
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			<del>X</del>
Preliminary Development Plan Amendment – Minor	<del>X</del>		<del>X</del>
Development Plan Review	X	X	X
Subdivision Plat – Major		<del>X</del>	X
Subdivision Plat – Minor	X		X
Text Amendment		X	X
Written Interpretation of UDO	X	X	X
Vested Rights		X	X

## H. Allowed Tree Species.

1. Primary list. The following trees have been found to be best suited to this area and yet require the least amount of maintenance. This list, along with the secondary list, represent trees which may be planted in the required landscaping area. Additional selective trees may be substituted when proven to be hearty to this region:

<u>Common Name</u>	<u>Scientific Name</u>
Bald cypress	Taxodium distichum
Chinese elm	Ulmus parvifolia
Ginkgo (male)	Ginkgo biloba
Honey locust	Gleditsia triacanthos
Loblolly pine	Pinus taeda
Pin oak	Quercus palustris
Sawtooth oak	Quercus acutissima
Sugar hackberry	Celtis laevigata
Willow oak	Quercus phellos
<u>Trident Maple</u>	<u>Acer buergerianum</u>
<u>Amur Maple</u>	<u>Acer grinnala</u>
<u>Shantung Maple</u>	<u>Acer truncatum (Fire Dragon)</u>
<u>Service Berry</u>	<u>Amelanchier arborea</u>
<u>Yaupon Holly</u>	<u>Ilex vomitoria</u>
<u>Goldenrain Tree</u>	<u>Koelreuteria paniculata</u>
<u>Tuliptree</u>	<u>Liriodendron tulipifera</u> <u>"Arnold/Fastigiatum"</u>

2. Secondary list. The following trees have been found to be the next best suited to this area but require increased maintenance:

<u>Common Name</u>	<u>Scientific Name</u>
American holly	Ilex opaca
Crab apple	Malus spp.
Crepe myrtle	Lagerstoemia indica
Dogwood	Cornus florida
Hawthorn	Crataegus opaca
Redbud	Cercis canadensis
River birch	Betula nigra
Southern magnolia	Magnolia grandiflora
Swamp red maple	Acer rubrum
Water oak	Quercus nigra
Weeping willow	Salix babylonica

### I. Shrub Species.

1. Primary list. The following shrubs have been found to be best suited to this area and yet require the least amount of maintenance. This list, along with the secondary list, are those shrubs which may be planted in the required landscaping area. Additional selective shrubs may be substituted when proven to be hearty to this region. Minimum plant size for either list is 3 gallons:

<u>Common Name</u>	<u>Scientific Name</u>
Evergreen hollies	Ilex species
Nandina	Nandina domestica
<u>Abelia</u>	<u>Kaleidoscope</u>
<u>Glossy Abelia</u>	<u>Abelia grandiflora</u>
<u>Chinese Fringeflower</u>	<u>Zhizou loropetalum</u>
<u>Dwarf Yaupon Holly</u>	<u>Ilex vomitoria "Nana"</u>

Japanese Camellia                      Camellia japonica

Wintergreen Barberry                      Berberis julinae

White Catrawba rhododendron                      Rhododendron catawbiense

2. Secondary list. The following shrubs have been found to be the next best suited to this area but require increased maintenance:

<u>Common Name</u>	<u>Scientific Name</u>
Abelia	Abelia grandiflora
Boxwood	Buxus sempervirens
Chinese photinia	Photinia serrulata

3. Evergreen species suitable for screening buffers.

<u>Common Name</u>	<u>Scientific Name</u>
<u>Nellie R. Stevens Holly</u>	<u>Llex x Nellie R. Stevens</u>
<u>Chinese Fringeflower</u>	<u>Loropetalum Chinense var. rubrum</u>
<u>Emily Bruner Holly</u>	<u>Elex x "Emily Bruner"</u>
<u>Thuja x 'Green Giant'</u>	<u>Arborvitae</u>
<u>Eastern Redcedar</u>	<u>Juniperus virginiana "Idyllwild, Manhattan Blue or Taylor"</u>

J. **Grasses.** The following grasses may be used:

1. Lawn Covers:

- Mayer Z-52 Zoysia
- Emerald zoysia
- Bermuda grass
- Bermuda grass hybrids
- Centipede

St. Augustine

2. Ornamental Grasses:

<u>Common Name</u>	<u>Scientific Name</u>
<u>Maidenhair grass</u>	<u>Gracillimus</u>
<u>Japanese Silver Grass</u>	<u>Miscanthus simensis</u>
<u>Purple Fountain Grass</u>	<u>Panicum virgatum</u>

**K. Ground Covers**

1. Primary list. The following ground covers have been found to be best suited to this area and require the least amount of maintenance. This list, along with the secondary list, are those ground covers which may be planted in the required landscaping area. Additional selective ground covers may be substituted when proven to be hearty to this region.

<u>Common Name</u>	<u>Scientific Name</u>
Dwarf nandina	N. domestica "harbour dwarf"
Junipers	Juniperus species
Liriope	Liriope muscari
Memorial rose	Rosa wichuraiana
Mondo grass	Ophiopogon japonicus
Periwinkle	Vinca minor
Spreading euonymus	E. fortunei "radicans"

2. Secondary list. The following ground covers have been found to be the next best suited to this area but require increased maintenance:

<u>Common Name</u>	<u>Scientific Name</u>
Carolina Jessamine	Gelsemium sempervirens
Dwarf bamboo	Arundinaria pygmaea
English ivy	Hedera helix



***Lot width (residential)***

shall mean the width of a lot as measured at the minimum front setback line, parallel to the front lot line.

***Lumber yard and building materials***

shall mean a facility which principal business is storing and selling cut lumber and associated accessory building materials primarily to contractors.

***Luminaire***

shall mean a complete lighting system, and includes a lamp or lamps and a fixture.

***Machine, sheet metal, or welding shop***

shall mean shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used as blacksmith, tinsmith, welding, and sheet metal shops.

***Mail services***

shall mean a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal and private service), and provides mailboxes for lease.

***Major alterations***

shall mean any change to the exterior surfaces of a building or part thereof, including but not limited to renovation, rehabilitation, reconstruction, restoration, replacement, or rearrangement of structural parts or elements, or any change that affects the plan configuration of walls, spaces, or bulk of a building.

***Mall or shopping center***

shall mean a facility with five or more stores for retail goods and services, which are structurally designed in an integrated fashion around or along both sides of a promenade, walkway, concourse, or courtyard. Primary individual store entrances front onto this promenade. This may include offices and satellite or unattached structures that are served by the mall road network. This definition applies only to a facility in which 85 percent or more of the gross floor area is accessed from enclosed promenades, walkways, concourses, or courtyards.

***Manufactured home***

shall mean a dwelling unit constructed in a factory in accordance with the federal manufactured home construction and safety standards promulgated by the United States Department of Housing and Urban Development under the authority of 42 U.S.C. 5401 et seq. As it existed on January 1, 1976.

***Manufactured home and mobile home sales and service facility***

shall mean a facility for the sale and service of mobile homes, manufactured homes, and travel trailers.

***Manufacturing, heavy***

**Shelter for abused persons**

shall mean a facility for providing a protective sanctuary for a person physically or mentally abused by family or other persons.

**Shoe repair shop**

shall mean a facility for repair or reconditioning of footgear, handbags and other leather articles such as shoes, boots, sandals, wallets, purses and other similar products.

**Shopping center**

shall mean a grouping of retail business and service uses on a single site with common parking facilities.

**Sign**

shall mean a structure or device designed or intended to convey information to the public in written, pictorial or three dimensional form. Signs erected by the state highway department, county road department or the city street department are not subject to the regulations.

**Sign area**

shall mean the entire area within a single continuous perimeter enclosing the outer dimensions of the actual message or copy area. It does not include customary extensions or embellishments, nor any structural elements outside the limits of such display surface and not forming an integral part of the display. For double-face or V-type sign structures, only one (1) display face shall be counted in computing the actual sign area. The sign area permitted on any piece of property refers to the permitted combined total area of all signs on that property.

**Sign (back-to-back)**

shall mean a structure with two (2) parallel and directly opposite signs with their faces oriented in opposite directions and spaced no more than three (3) feet apart.

**Sign (bench)**

shall mean a sign located on any part of and contained within the perimeter of the bench or seat.

**Sign (bus shelter)**

shall mean a sign located on any part of and contained within the perimeter walls of the shelter.

**Sign (business)**

shall mean a sign which directs the attention of the general public to a business, product, service or activity which is conducted upon the premises where such sign is located.

**Sign (electronic message center/digital)**

shall mean a sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs, or a flipper matrix.

**Sign (flashing)**

shall mean a sign, the illumination of which is not constant in intensity when in use; except that illuminated signs which indicate the time, date, temperature and other public service information shall not be considered to be flashing signs.

Services	Off Street Parking	Off Street Loading (27-601-4)
Casino gaming business	One space per 4 patrons based on the occupancy load as established by local, county and state fire, building or health codes, plus one space per employee on the largest working shift.	
Warehousing	1 space per 1,000 square feet plus 1 space per 300 sq. ft. for auxiliary office use.	C

Retail Trade	Off Street Parking	Off Street Loading (27-601-4)
Department and variety stores	1 space per 200 square feet of C.S.A.	
Grocery stores and market	6 spaces plus 1 space per 200 square feet C.S.A. over 1,000 square feet	A
Furniture store, automobile sales	1 space per 500 square feet C.S.A. plus 1 space per employee	
Liquor store	3 spaces plus 1 space per 300 square feet G.F.A. over 500 square feet plus 1 queuing space per drive-through window	A
Night club or tavern	4 plus 1 per 50 square feet C.S.A.	
Nursery	1 space per 1,000 square feet of lot area for the first 10,000 sq. ft., then 1 per 5,000 sq. ft. plus 1 per 250 sq. ft. sales floor area	
Radio and T.V. sales and/or repair	1 per 200 square feet C.S.A.	
Restaurants (drive-in and drive-up fast food)	1 per 100 square feet C.S.A. plus 1 per 3 employees plus 5 queuing space per drive-up window	A
Restaurants (not drive-in or drive-up)	1 per 3 seats at M.S.C. plus 1 per employee	A
Retail sales not otherwise listed	1 space per 300 square feet GFA	A
Secondhand store	1 space per 500 square feet GFA	
Shopping center	1 per 250 square feet up to 400,000 sq.ft. GFA; 1 per 225 for	E

Retail Trade	Off Street Parking	Off Street Loading (27-601-4)
	400,001 to 600,000 sq. ft. GFA; 1 per 200 sq. ft. over 600,001 sq. ft.	
<u>Shopping Center/Mall</u>	1 per 300 square feet up to 50,000 sq. ft. GFA; 1 per 275 sq. ft. for 50,001 to 200,000 GFA; 1 per 250 sq. ft. for 200,001 to 600,000 GFA; and 1 per 225 sq. ft. for over 600,000 GFA	<u>C</u>
Specialty shops (camera, gifts, jewelry, etc.)	4 plus 1 per 200 square feet C.S.A. over 500 square feet	
Speculative buildings	As specified by development plan approval	C
Wholesale establishments	4 plus 1 per employee	

\*Note:

- C.S.A. = Customer service area  
G.F.A. = Gross floor area  
M.S.C. = Maximum seating capacity  
G.L.A. = Gross leasable area

**27-601-3 Minimum Parking Standards For All Uses Not Listed In Section 27-601-2**

A. Minimum parking standards for all uses not listed in section 27-601-2 are as follows:

Retail	
For the first 12,000 square feet GLA	1 space/200 square feet GLA
From 12,001 to 48,000 square feet GLA	1 space/225 square feet GLA
Over 48,000 square feet GLA	1 space/250 square feet GLA
Office	
For the first 12,000 square feet GLA	1 space/200 square feet GLA
From 12,001 to 48,000 square feet GLA	1 space/300 square feet GLA
Over 48,000 square feet GLA	1 space/350 square feet GLA

Manufacturing and Industrial	Service, Repair and Shop Areas
For the first 20,000 square feet GFA	1 space/400 square feet GFA
Over 20,000 square feet GFA	1 space/1,000 square feet GFA

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
<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b>				R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	RH	T1,2,3							I-1,2	I-3	I-4
	Boat or marine craft dealer																					P		P	P	P
	Car wash - full service																					P		P	P	P
	Car wash self-service																					P		P	P	P
	Gasoline service station																					P		P	P	P
	Motorcycle or ATV sales & service																					P		P	P	P
	Tire sales																					P		P	P	P
	Truck stop/travel plaza																					C		C	C	C
	<b>Heavy Consumer Goods Sales or Service</b>																									
	Agricultural equipment and supplies (sales & service)																					P	P	P	P	P
	Appliance repair - (Large)																					P	P	P	P	P
	Appliance repair (Small)																					P	P	P	P	P
	Bus, truck sales and service																					P	P	P	P	P
	Clothing and personal items (repair)																					P	P	P	P	P
	Commercial, industrial machinery & equipment (sales & service)																					P	P	P	P	P
	Department store, warehouse club or superstore																					P	P	P	P	P
	Computer and software shop																	P	P	P	P	P	P	P	P	P
	Electronics and appliances (new)																		P	P	P	P	P	P	P	P
	Electronics and appliances (used)																					P	P	P	P	P
	Floor, paint, wall coverings, window treatments																					P	P	P	P	P
	Furniture or home furnishings (new)																					P	P	P	P	P
	Furniture or home furnishings (used)																					P	P	P	P	P
	Furniture repair and upholstery shop																					P	P	P	P	P
	Greenhouse (sales)																					P	P	P	P	P
	Hardware store																					P	P	P	P	P
	Hardware store (neighborhood)																					P	P	P	P	P
	Home improvement center																					P	P	P	P	P
	Lawn and garden supplies																					P	P	P	P	P
	Locksmith																					P	P	P	P	P
	Lumber yard and building materials																					P	P	P	P	P
	<b>Mall or shopping center</b>																					P	P	P	P	P
	Manufactured home and mobile home sales and service																					P	P	P	P	P
	Oil and gas equipment (sales and service)																					P	P	P	P	P
	Sand, gravel, stone, or earth sales and storage																					P	P	P	P	P
	<b>Shopping center</b>																					P	P	P	P	P
	Swimming pool sales and supply store (w/o storage yard)																					P	P	P	P	P
	Truck or tractor sales and service facility																					P	P	P	P	P
	<b>Durable Consumer Goods Sales or Service</b>																									
	Bait and tackle shop																					P	P	P	P	P
	Bicycle sales and service																					P	P	P	P	P
	Bicycle sales and service (no outside storage)																					P	P	P	P	P
	Bookstore																					P	P	P	P	P
	Bridal shop																					P	P	P	P	P
	Cameras, photographic supplies and services																					P	P	P	P	P