

ORDINANCE NO. 79-23**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, it is 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 September 12, 2023, that changes be made; and,

WHEREAS, three (3) copies of September 2023 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 September 2023 Amendments to the Unified Development Ordinance include amendments to screening of ductwork and data mining facilities,

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

SECTION 1: The September 2023 Amendments to the Unified Development Ordinance are hereby adopted.

SECTION 2: The codifier shall codify the adopted amendments by amending existing sections and by adding new sections of the UDO.

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 amendments be effective, and the amendments are hereby made effective, as of date of approval of the Ordinance.

PASSED AND APPROVED THIS 10th DAY OF October, 2023.

ATTEST:

Sherril Gard
City Clerk

APPROVED:

[Signature]
VICE Mayor *JAMES REGO*

Approved as to form:

Jerry Confield
Publish One Time

**SEPTEMBER 2023 AMENDMENTS TO THE UNIFIED
DEVELOPMENT ORDINANCES**

2. The Design Guidelines apply to existing multifamily, commercial and industrial development within the City of Fort Smith when rehabilitation (renovation, restoration, modification, addition, or retrofit) is proposed to the exterior of a structure or site will: (1) increase the gross square footage of the structure by 50% or greater and (2) shall also include any cumulative building additions from the effective date of this ordinance that over a five year period amount to a 50% or greater increase in square footage.
3. Rehabilitation projects shall conform to the guidelines to the greatest extent possible.
4. Buildings in compliance with these regulations shall not be renovated, remodeled, altered, or repaired so that the building will be in noncompliance with these regulations.

C. Transitional and Commercial Building Design Standards.

1. Any development that contains more than one building shall incorporate a recurring, unifying and identifiable theme for the entire development.
2. The predominant (fifty-one (51) percent of the gross wall area or greater) exterior building facade of all commercial buildings must be of high quality materials such as brick, wood, native stone, tinted glass, stucco, exterior insulated finished systems (EIFS), cementitious siding (e.g., Hardie Board), tinted/textured concrete masonry units, or other siding materials as approved by the Director. Smooth-faced concrete block, plain or untextured tilt-up panels and prefabricated steel panels are prohibited as the predominant facade. Applicants with commercial development adjacent to residential development may incorporate residential materials on the side of the development that faces the residential development.
3. All facades of a building that are visible from the finished grades of adjoining properties or public streets shall have design characteristics similar to the building's front facade. This shall be implemented by requiring the same treatment as discussed in C.2 above.
4. All mechanical equipment, heating/cooling systems, trash receptacles and utility boxes shall be completely screened from adjoining properties and street right-of-way.
 - a. For ground-mounted equipment, the screening shall consist of a wall, fence, or approved landscaping or the equipment must be enclosed within a building.

- 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.

- c. Exhaust fans, utility boxes, and ductwork located on building facades not visible from a street right-of-way or property zoned or developed residential may match the permanent color of the surface from which they project.

- 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

centers. These establishments may form a network including local, and point-to-point pick up and delivery.

Credit and finance establishment

shall mean public or private establishments which extend credit or lend funds.

Crematory

see cemetery.

Criminal justice facility

shall mean a facility used primarily for conducting the affairs of the criminal justice system, including federal, state, county, and municipal courts, public safety departments and detention facilities, together with incidental storage and maintenance of necessary vehicles.

Cul-de-sac

shall mean a street with only one outlet having a radius for the safe and convenient reversal of traffic movements.

Customer service area

shall mean an area set aside in any retail or commercial establishment where customers may receive special service or where customers may wait while service is being performed on automobiles, appliances, or other customer-owned products.

Dairies

see food and beverage processing.

Dance hall/ night club

shall mean an establishment whose primary activity is the provision of facilities for dancing and live entertainment or amplified music.

Data center

Shall mean a building, dedicated space within a building, or group of structures used to house a large group of computer systems and associated components, such as telecommunications and data processing systems to be used for the remote storage, processing, or distribution of large amounts of data. Such data include, but are not limited to computationally-intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, and genome sequencing. Facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructures to support operations.

Data processing facility

shall mean an establishment primarily involved in the compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices, computer-related sales establishments, and business or personal services.

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.

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.

Country club (private)

shall mean an area containing a clubhouse and recreation facilities restricted to the use of specific membership and which may contain a golf course, tennis court, swimming pool, dining room, social facilities and similar recreation and service facilities, with a minimum of ten (10) acres.

Data center

Shall mean a building, dedicated space within a building, or group of structures used to house a large group of computer systems and associated components, such as telecommunications and data processing systems to be used for the remote storage, processing, or distribution of large amounts of data. Such data include, but are not limited to computationally-intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, and genome sequencing. Facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructures to support operations.

Duplex

shall mean a building on a single lot that has two attached independent dwelling units.

Dwelling

shall mean a building that contains one or more dwelling units used, intended, or designed to be rented, leased, let or hired out to be occupied for living purposes.

		4230 Telecommunications and broadcasting studios							C	P	P	P
		4240 Information services and data processing <u>Data Center</u>										<u>P</u>
		S6500 Communication towers	C	C	C	C	C	C	C	P	P	P
		4300 Utilities and utility services	C	C	C	C	C	C	C	C	P	P
		Private franchise utilities									P	P
		4310 Electric power									C	P
		4313 Nuclear power										
		4340 Sewer, solid waste and related services										P
		Recycling drop-off									C	P
		4342 Hazardous waste treatment and disposal										
		4343 Solid waste collection										P
		4344 Solid waste combustor or incinerator										P
		4345 Solid waste landfill										
		5000 Arts, Entertainment, and Recreation										
Arts, Entertainment and Recreation		5100 Performing arts or supporting establishments										
		S3110 Performance theater										
		S3120 Movie theater										
		S3140 Drive-in theater									C	C

	Districts	MEOS	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	
DP = Development Plan review by the PC and approval by the City Board																												
P = Permitted Use, C = Conditional Use, A = Accessory Use																												
	Manufacturing, motors, drives, and generators				R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	H	T1,2,3	C-1	C-2	C-3	C-4	C-5	C-6	I-1,2	I-3	I-4	
	Office supplies																								P	P	P	
	Wholesale Trade Establishment	P																										
	Durable goods	P																					P	P	P	P	P	
	Electrical, plumbing, heat & air conditioning	P																							P	P	P	
	Nondurable goods																						P	P	P	P	P	
	Warehouse and Storage Services																											
	Auto salvage yard																										P	
	Building materials salvage yard																									P	P	
	Bulk petroleum storage																									P	P	
	Container storage	P																					P		P	P	P	
	Mini storage warehouse (climatized) See section 27-707																								DP	DP	DP	
	Mini storage warehouse (non-climatized) See section 27-707																								DP	DP	DP	
	Packaging and distribution center																								P	P	P	
	Petroleum distribution facility																								C	P	P	
	Portable storage Unit																								P	P	P	
	Vehicle storage yard	P																							P	P	P	
	Warehouse																								P	P	P	
	Transportation, Communication, Information and Utilities																											
	Transportation Services																											
	Airport																									P	P	P
	Bus station and terminal	P																								C	C	C
	Courier and messenger services																				C	P	P	P	P	P	P	P
	Ferry boat facility																									P	P	
	Heliport																									P	P	
	Limousine service	P																								P	P	
	Mail services																									P	P	
	Marina																									P	P	
	Motor freight terminal																									P	P	
	Moving and storage																									P	P	
	Moving company																						P		P	P	P	
	Pipeline transportation																									P	P	
	Port facility																									P	P	
	Rail transportation																							P	P	P	P	
	Taxicab service																								P	P	P	
	Communications and Information	P																										
	Commercial communication towers	P	C	C	C	C	C	C	C	C	C	C	C	C	C	C										C	C	
	Data processing facility	P																								C	P	
	Data center																									C	P	
	Motion pictures and sound recording studios																									P	P	
	Printing commercial/industrial	P																								P	P	